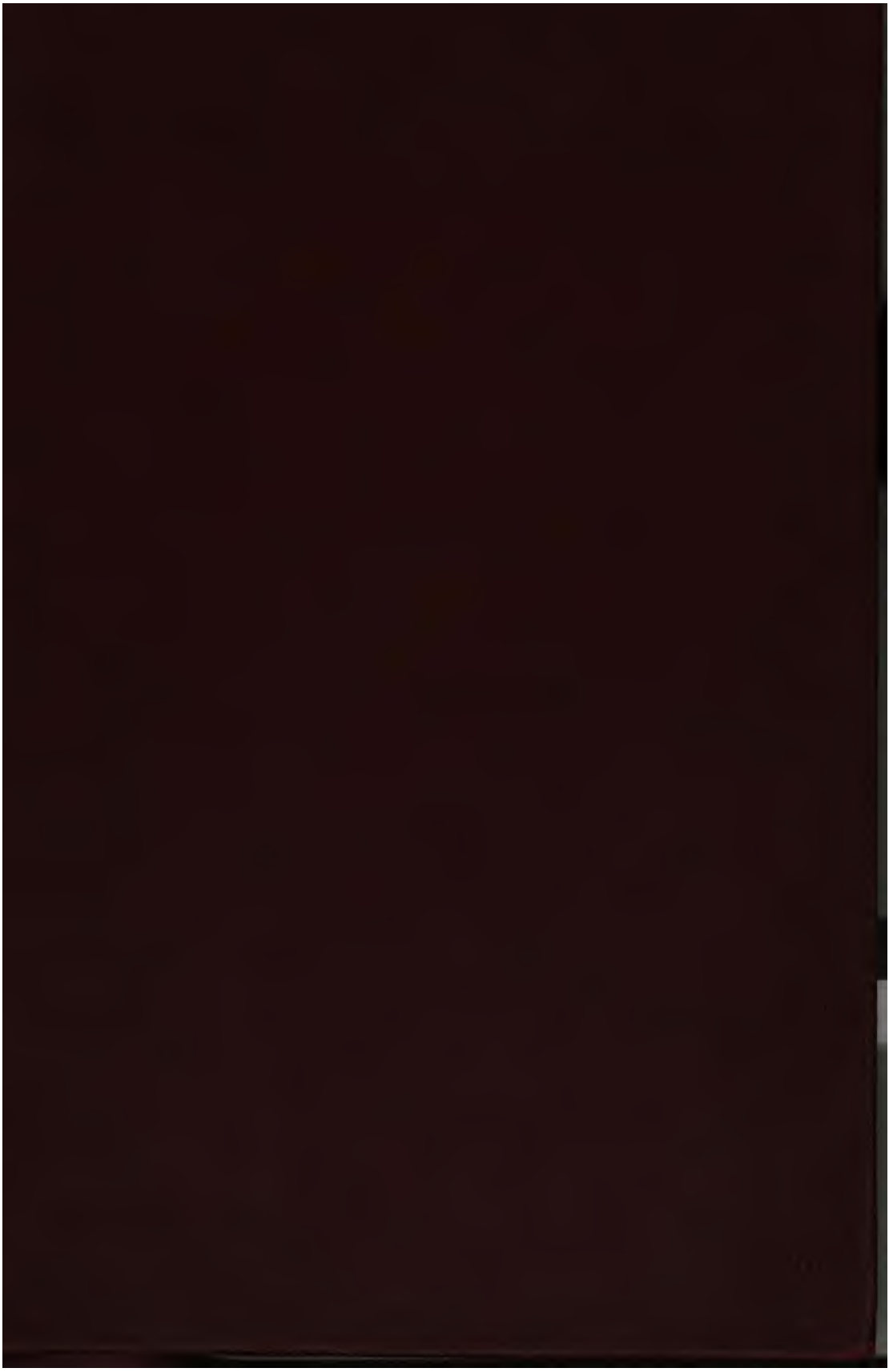

A LEGAL MINIMUM WAGE

BY

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PREFACE.

The present study of minimum wage legislation is an introduction to a larger study which the writer intends to make in the near future. Anything like a complete study of minimum wage legislation, at least from the standpoint of its positive economic effects, both direct and indirect, is impossible in the present state of our information. This is especially true as regards the effects of minimum wage legislation in England and America. Minimum wage legislation is largely in the experimental stage in both countries as yet. It is expected that the Report of the United States Bureau of Labor Statistics on minimum wage in Oregon, which is now in course of preparation, will give us precise data in regard to the economic effects of this form of legislation in that State. The writer regrets that he could not avail himself of the excellent report on Minimum Wage Legislation in the United States and Foreign Countries which was published by the Bureau of Labor Statistics as the present work was in the press.

Limited as is our positive knowledge in regard to the effects of minimum wage legislation a clear presentation of such facts as we have cannot but prove helpful to those who are interested in this new social reform measure. If, as the writer believes minimum wage legislation is a useful remedy for the low wages of women and minor workers, much good will be done by educating the public as to its necessity and feasibility. This was the inspiring thought from the beginning to the end of this study.

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CHAPTER I

INTRODUCTORY

In America, as in England, modern labor legislation began with the protection of children and women. These were the persons on whom the industrial system had pressed most heavily, and hence they were the first to gain the support of public opinion. As soon as the evil consequences of employing children and women for abnormally long hours and under unsanitary working conditions made themselves felt men realized that here was a condition which demanded remedial legislation. The State, it was felt, in order to protect the lives and safeguard the health of women and children, should regulate their hours and working conditions. Most modern States are now convinced of their obligation in this regard and have, therefore, passed laws regulating the hours and working conditions of women and children.

It is not sufficient, however, for women to have their hours of work shortened, or the factories and stores regulated according to the best ideas of modern sanitation; they must, also, receive sufficient compensation so that they may be able to purchase necessary food and clothing and live in decent surroundings. Recent investigations have disclosed the fact that a fairly large percentage of the women workers in this country are not receiving sufficient to maintain them even according to the lowest standard of decency. Our States are now beginning to take cognizance of this evil and are trying to apply a remedy for it, just as they did in the case of long hours and lack of sanitation in factories and stores. Other modern countries, too, have had to deal with the evil of low wages and have tried many remedies for it. Of all these remedies the most direct and effective, so far as our present experience goes, is minimum wage legislation. It

is to the consideration of this remedy for the evil of low wages that the present study is devoted.

It is the purpose of the writer to review the modern minimum wage movement and its results in the different countries. As an introduction to the study of this modern movement the various methods of regulating wages in vogue before the age of free competition are discussed. Chapter II takes up Custom, Gild and Statute regulations of the middle ages. In Chapters III and IV are discussed the methods of regulating wages adopted by the British Colonies in Australasia. There, as will be seen, two methods of regulating wages have been applied. New Zealand has attempted to regulate wages by means of a court of arbitration, and Victoria has tried to do the same thing by means of wages-boards composed of an equal number of employers and employes together with an outside and non-partisan chairman. After casting around for years for a remedy for the evil of sweating, England determined, in 1909, to apply the wages-board system of Victoria to certain of her sweated industries. Chapters V and VI contain a discussion of the application of this system and its results in England. In 1911, the coal miners of England and Wales began to agitate for a national minimum wage, and in the early part of 1912, they went out on strike in order to enforce their demands. The government, as will be seen in Chapter VII, instead of granting the demands of the miners for a national minimum wage, determined that the wages in each district should be fixed by a district committee made up of representatives of the miners and operators and a chairman elected by the representatives of both parties.

In Chapter VIII, the minimum wage movement in the United States is discussed. The movement in this country, as we shall see, has been carried on under the auspices of the Consumers' League, and has been limited to the securing of a minimum wage for women and minors. American students of the question feel that the time has

not yet come for the application of minimum wage legislation to men in this country. Chapter IX contains a discussion of the Massachusetts minimum wage law which was the first to be adopted in this country. In 1913, eight other American states passed minimum wage laws. These laws, with the exception of the Utah law, follow the main lines laid down by the Victoria, British and Massachusetts Acts. In each case the law provides for a public commission which is authorized to establish a wage board or conference in each trade, made up of an equal number of employers and employes together with one or more representatives of the public. It is the business of this board or conference to make recommendations to the commission in regard to minimum rates of wages in the particular trade for which it was established, which recommendations have the force of law as soon as they are approved by the commission. In Utah, as will be seen in Chapter X, a different plan has been adopted. There the legislature has fixed minimum rates of wages to be paid to all female workers employed in any industry in the State. In six of the eight States which have adopted the commission plan of fixing wages, the rulings of the commission are obligatory, any violation of them constituting a misdemeanor. Chapter XI contains a comparative analysis of these six compulsory minimum wage laws. On account of the importance of the constitutional aspect of minimum wage legislation, a special chapter, Chapter XII, is devoted to them. Chapter XIII treats of objections to minimum wage legislation and their answers. This is followed by another chapter which contains the results of a canvass of the opinions of American economists on minimum wage legislation.

CHAPTER II

REGULATION OF WAGES BY CUSTOM, GILD AND STATUTE

Before the nineteenth century no country committed itself unreservedly to a policy of free competition as a method of regulating wages. Everywhere, before that time, the laborer's income was regulated by custom, gild statute or law. In the early middle ages the manor provided for the wants of its serfs. These were bound to the soil and were compelled to labor for the lord in return for either the necessaries of life or the use of land. The amount which each serf received was not a matter of free contract, but was determined by custom and manorial regulations. In the towns the income of the workers was determined, for a considerable part of the population, by the statutes of the gilds to which they belonged. Gild statutes regulated the time of work, the quality of the article produced and the remuneration which the members received for their work. When the labor problem became too large for the gilds to handle; when they were no longer able, or at least willing, to regulate wages the State felt that it was its duty to take over this function. Accordingly, in the sixteenth century we find England regulating wages by law—a policy to which it adhered, at least in theory, until the rise of the laissez-faire doctrine in the beginning of the nineteenth century.

Before the Norman Conquest, and for a long time afterwards, the manor was the great institution around which the economic life of England centered. The lord owned all the land in the neighborhood of his manor, and under him was a body of serfs. The relation between the lord and his serfs was one of mutual dependence. He supplied the land on which the serfs worked and also in many instances, the outfit necessary for the cultivation of the land. The serfs in return had certain obligations towards

their lord which are described for us in more or less detail in Domesday book. They were bound to work a certain number of days each week on the lord's demesne, and an additional number of days in harvest time, and they were also bound to make special payments in kind at Christmas, Easter and Michaelmas.[1]

In regard to the exact number of days which the serfs were bound to work for their lord, the payments which they were obliged to make, or the incomes which they received, no general statement can be made, for each manor had its own customs which were handed down from time immemorial. These customs determined the obligations of the different classes of serfs as well as the return which they received for their labor.

A great change took place in the manorial system in England during the three centuries succeeding the Norman Conquest. Payment in money was gradually substituted for payment in kind. The serfs concluded that the time devoted to the service of their lord might be better spent in the cultivation of the lands which had been allotted to them. The lords, on the other hand, felt that they could get more out of their tenants by money payments than they had been receiving in the form of services or of kind. As a result of the commutation of payments in money for payments in kind, the serfs were able to devote more attention to agriculture.

When the newly freed serf began to cultivate the land more intensively he had little time left for the manufacture of a great many things necessary for his daily consumption. A new class of persons, therefore, arose at this time who devoted either whole or part of their time to the working up of the raw products of the free tenant and the preparation of the various articles which he needed in his daily life. The members of this class, at first, were persons who owned a piece of land in town and

[1]Seebohm, English Village Community, pp. 137 to 148. Vinogradoff, Growth of the Manor, p. 233.

devoted part of their time to the cultivation of the land, and the other part to the preparation of various articles for the use of others.[2]

At an early date the town artisans were convinced of the necessity of some means of regulating work and pay in the various trades. Most of them had been brought up under the influence of the manorial customs and they felt that new regulations ought to be made to take their places. It was for the purpose of making such regulations that the first merchant gilds were established. These organizations prescribed the conditions under which their members worked, the quality of product turned out, and the price which they were to receive for their products. The one central purpose of all these regulations of the merchant gilds was to secure a sufficient income for their members. With this purpose in view, we can understand why they desired to see all products come up to a certain standard and why they prevented outsiders from trading in the town. The gild member could not expect to receive a high return if his products did not come up to standard. Furthermore, he felt that if outsiders were allowed to compete freely with him neither his standards of production nor his income could be maintained at a very high level.

As the population of the town continued to increase, owing to the great number of free serfs coming in from the country every year, there arose a new class of men who owned no property in the town but who desired to make their living by some handicraft. If the merchant gild allowed all the members of this class to enter the various trades without any restriction whatsoever, they could not keep up the quality of their wares or the income of their members. Hence they were driven in self-defense to draw up rather strict rules so as to limit the number of persons entering each trade. As the number

[2] Cunningham, History of English Industry and Commerce, vol. II, p. 95. Bücher, Industrial Evolution, p. 192.

of those excluded increased, radical feeling against the organization grew apace. This feeling soon became crystallized and found expression in the form of new organizations known as craft gilds. Unlike the old merchant gild, the craft gild did not attempt to embrace all the inhabitants of the town, but merely those of a particular trade. The regulations of the craft gild were essentially the same as those of the merchant gilds. Strangers were forbidden to trade in the town controlled by these organizations, except on market days, and even then they were forbidden to sell anything except victuals. The articles produced by every craftsman had to reach a certain standard of perfection, and hence each one had to pass several years' apprenticeship, after which he was compelled to take a rather difficult examination before being admitted to the trade. The time during which the craftsman should work, the kind of product he should turn out and the price of his product were all regulated by gild statute. As in the case of the merchant gild, the principal purpose of these regulations was to enable each craftsman to earn his livelihood by the exercise of his own trade.[3]

Like the merchant gilds, the craft gilds in time also became too restrictive. Their apprenticeship regulations became more and more exacting as the number of applicants for admission to the trades increased. This exclusiveness of the craft gilds gave rise to much bitter feeling against them about the middle of the fourteenth century.[4] There were a great many persons at that time who could never hope to become apprentices to any trade and who, even after they had learned a trade, had little chance of becoming masters.[5] Common interests soon developed a common consciousness of rights among those who were thus excluded. The plague of 1348 gave this class of

[3] See Articles of the London Spinners' Gild, quoted in Robinson's Readings in European History, pp. 609-610.
[4] Brentano's Introductory Essay on Smiths' Gilds.
[5] Ashley, Introduction to English Economic History and Theory, part II, p. 105.

persons a splendid opportunity of asserting themselves. They took advantage of the scarcity of labor to demand an increase of wages. The employers resisted the demands of their journeymen and had a law passed known as the Statute of Laborers, by which it was ordained that no workman should receive more and no employer should give more than had been customary before the plague. By the middle of the fourteenth century the gilds no longer regulated the wage of a large body of workers. The labor problem was becoming too large for the craft organizations, and the more the number of laborers increased, the more powerless the old organizations became to regulate wages and working conditions. Through the Statute of Laborers the master craftsmen and feudal lords tried to retain control over the newly freed serfs and to prevent their wages from increasing. That they were unsuccessful in their attempt is evident from the great increase of wages after the black death, generally reckoned at from 50 to 100 per cent., and from the persistent complaints in Parliament on the necessity of further legislation for the purpose of keeping down wages.[6]

Towards the end of the fourteenth century the laborers, whose interests were no longer promoted by the gilds and who had abandoned all hope of obtaining protection from Parliament, formed organizations of their own which are known as journeymen's organizations. These organizations reached the zenith of their power about the middle of the fifteenth century. From that time on they began to show signs of disintegration until they were finally brought under the control of the older organizations at the beginning of the sixteenth century. Throughout the sixteenth and seventeenth centuries the journeymen's organizations continued as mere adjuncts of the old craft gilds, which at that time had become in a great measure, trading companies. Under such circumstances the journeymen's organizations could be of little

[6] Putnam Enforcement of the Statute of Laborers, pp. 4-6.

use to their members. They could not be used as a means of defending the rights and advancing the interests of the journeymen as a whole.

The weakness of the journeymen's organizations during all this period was due in part to the dominance of the trading companies and partly to the fact that no journeyman expected to continue for his whole life as such. All the journeymen hoped to become small masters and the hope was continually realized by the more ambitious and energetic. In this way the journeymen were always losing their best members. Once they had left the ranks of the journeymen to become small masters, they came under the sway of the trading organizations. The trading organizations in those days helped the small master to market his product and they not unfrequently provided him with raw material and the tools necessary in his trade. The fact that the trader assumed the responsibility of marketing the goods of the small master seems to have given him considerable control over the latter. The trader seems to have acquired the power in one way or another of dictating the terms under which the small master was to carry on his work as well as the kind of material he was to use.[7]

On account of the great power of the trading companies, in the sixteenth and seventeenth centuries as well as the opportunities that were being held out to their more ambitious members, it was very difficult for the journeymen to form strong organizations of their own. From the beginning of the sixteenth century onwards, we, therefore, find a large number of persons who could not rely on any organization for protection. The enclosures of that century as well as the confiscation of the monasteries added considerably to this number. With no organization or manorial laws to protect them, the laborers were left to the mercy of the large land owner, or trading

[7]Ashley, Introduction to English Economic History and Theory, Part II, p. 114.

capitalist. The great monetary revolution of the sixteenth century, as well as the increasing supply of labor, pulled down the wages of the laborer and reduced him to a condition of poverty. A paternalistic government beheld the laborer who had formerly been protected by gild statute, now abandoned and left a prey to the economic forces of the time. A government which considered it its duty to provide a remedy for all the evils of life, could not pass over this great evil without trying to provide a remedy for it. It, therefore, determined to provide a remedy for low wages and its remedy was embodied in the famous statute of artificers passed in 1562.

The principal object of the statute of artificers was to better the condition of the laborer by securing for him in time of plenty and in time of scarcity a "convenient portion of wages." Every year the justices in each locality and each corporate town were to meet, and calling to them such discreet and grave persons as they should think meet, and confirming together respecting the plenty and scarcity of the time and other circumstances necessary to be considered, should limit and appoint wages for every kind of manual labor, skilled or unskilled, by the year, week or day, and with or without allowances for food.[8] No artisan was allowed to exercise any craft without a 7-year apprenticeship. Every master in the town who employed one journeyman might take three appentices. The hours of labor were also fixed by the statute.

[8]It may be interesting for students of the modern minimum wage movement to note the method of procedure followed in the administration of the statute of artificers. The justices of the peace were to meet within six weeks after Easter, and fix the wages of all laborers. After having fixed the rates the justices were to send them to the Court of Chancery for approval, whereupon the Lord Chancellor with the approval of the privy council was to send twelve sealed copies to the sheriff and justices of the peace in each county, as well as to the mayor of each city. These officers were to have the decrees of the justices proclaimed on each market-day, in all the corporate towns, before Michaelmas. The justices of the peace and the mayors of towns were authorized to make special inquiries from time to time to see that the rates fixed by the justices were being paid. Persons paying more or less than the prescribed wage were to be fined five pounds or to spend ten days in prison.

No artisan was allowed to work more than twelve hours in summer, and from dark until dark in winter. In all the principal employments, artisans were to be hired by the year and were not to leave their masters or to be dismissed by them before the end of the year.[9]

That the statute of artificers was not enforced in any general and systematic manner seems to be the general opinion of writers. Mr. Hewens, after a long and painstaking investigation, was able to discover only forty-seven cases of assessments of wages between 1563 and the end of the eighteenth century. These cases were scattered unevenly over this long period, whence he concluded that sometimes the justices were very active in enforcing the statute, while at other times there was little or no enforcement. As a result of a more recent investigation,[10] Miss Ellen A. McArthur concluded that the statute was administered in a systematic way in London up to the beginning of the seventeenth century, from which she tries to establish a probability in favor of its systematic enforcement in other districts.[11] Even though we admit the force of this contention, it only brings us, at most, to the beginning of the seventeenth century, after which we have little evidence to show that the statute was generally enforced. If the justices had done their duty in putting into effect the provisions of the Elizabethan statute it is difficult to understand why wages should have continued to fall and the laborer to be reduced to a condition of

[9]The statute of artificers purports to be merely a codification of all labor laws passed since the time of Edward I. In reality, however, it attempts more than any previous statutes. There is no department of the labor contract which it does not attempt to regulate. The justices might force persons to accept apprenticeship in certain trades whether these were willing or not, they might compel artificers from the towns to engage in agricultural labor in harvest time, they might compel an employe to remain with his employer until the time of his service was completed. The statute prescribed that no person should retain any employes in his or her service for less than one year, and also prescribed the kind of persons who might be compelled to serve in each craft.

[10]Regulation of Wages by the Justices of the Peace, Economic Journal, vol. 8, pp. 341-346.

[11]English Historical Review, vol. 15, pp. 445-455.

poverty throughout the seventeenth and the greater part of the eighteenth century.

All through the seventeenth century the ordinary laborers were unable to form any effective organization for the defense of their own interests and to secure the enforcement of the laws which had ostensibly been passed for their benefit. But, as the difficulties of becoming an independent master were augmented and as the modern gulf between capital and labor began to appear, the workers developed a common consciousness with regard to their rights. The first time of which we have record that this common consciousness began to show itself in the form of united and independent action was in 1720. At that time we find the master tailors complaining to Parliament that the journeymen tailors, in and about the cities of London and Westminster, had lately entered into a combination to raise wages.[12] Parliament, thereupon passed a law regulating the hours and wages of journeymen, and at the same time declaring that all combinations among them for the purpose of raising wages or lessening hours were null and void and subjecting persons entering into such agreements to two months' imprisonment. By this time the statute of artificers had practically fallen into disuse, the magistrates had practically ceased to enforce it.

The purpose which the laborers had in view in uniting in 1720, and throughout the whole course of the eighteenth century was to compel the magistrates to enforce the old statute or to induce Parliament to pass new legislation where the existing statutes did not apply. Several times during the eighteenth century and the beginning of the nineteenth Parliament in response to the demands of the laborers passed new statutes regulating wages or issued orders to the magistrates to enforce the statute of artificers. In 1720, as was already noted, Parliament passed a statute regulating the hours and wages of jour-

[12]Webb, History of Trade Unionism, p. 27.

neymen tailors and in 1756, it passed a similar statute regulating hours and wages in the woolen trades. In 1776, the Spitfield silk weavers protested that they were without employment owing to the importation of silk. Parliament, therefore, passed a law against the importation of silk and empowered justices to regulate the hours and wages of the weavers. This combination of the weavers to obtain the passage of the law became a permanent union to enforce it. It continued to represent the weavers before the justices and helped to draw up those elaborate schedules on which piece rates were based.[13] Between 1793 and 1815, the cotton operatives made numerous petitions to Parliament for a minimum wage. In the first years of the nineteenth century, petition after petition was sent into Parliament from Lancashire and Glasgow reiterating the old demand for a legally fixed scale of wages. In 1808, the hand loom weavers whose wages were a little more than a third of what they had been ten years before, petitioned Parliament for a legal minimum wage. A select committee was appointed to consider the matter. This committee made an unfavorable report on the petition of the hand loomers on the ground that the fixing of a minimum rate of wages was wholly inadmissable in principle, that it was incapable of being reduced to practice and that it would be most detrimental to the interests of employer and employe.[14]

This report marks the beginning of a great change in the economic policies of Parliament. English statesmen were now beginning to feel the influence of the philosophy of Adam Smith; they were beginning to feel that a legal regulation of wages was a great handicap to industry. The dominant classes seized on this new theory as the best means of advancing their own interests. For several years they had successfully opposed the enactment or enforcement of laws destined to improve the condition of

[13]Webb, History of Trade Unionism, p. 42.
[14]Webb. op. cit., p. 99.

the laborer. The rise of the new philosophy made their case much stronger. For the future they undertook to oppose all such laws in the name of economic science.

The workmen were now striving by every means in their power, against the adverse bias of the justices of the peace, of the courts and of Parliament, to secure the enforcement of the statute of artificers. The cotton weavers of Glasgow, after having unsuccessfully petitioned Parliament for four years to enforce the statute, determined to take out legal proceedings against their employers.[15] The court upheld the power of the magistrates to fix wages. The magistrates thereupon set about drawing up schedules of wages for the trade but after the schedules had been drawn up, they refused to grant an order for their enforcement. The result was a long and bitter strike in which the operatives were worsted.[16] About the same time a number of other labor organizations, among them the London artisans and the Kentish millers, also appealed to the courts in order to force the justices to fix wages in their trades but their appeals were just as fruitless as were those of the Glasgow weavers. As a last resort the labor organizations petitioned Parliament to enforce the old statutes but instead of granting their petition, Parliament passed an act in 1813 repealing that section of the statute of artificers which empowered the justices to regulate wages. This act marked the final doom of the old doctrine of a legal wage and it was one of the first great victories of the advocates of laissez-faire.

All through the nineteenth century England followed a strict laissez-faire policy in regard to the wages. She looked upon wages as a matter to be determined between employers and employes without any outside interference. During the first few years of the twentieth century, however, there has been a considerable reaction against

[15] Webb, op. cit., p. 57.
[16] Webb, History of Trade Unionism, p. 57.

was filed, the dispute was to be taken before the Industrial Arbitration Court.[21]

Out of a total of 206 cases brought before the boards of conciliation, between the time of the law's coming into operation and December 31, 1901, only fifty-four were completely settled by them; two were partly settled; eight cases were withdrawn and 145 cases were appealed to the court. Owing to the acknowledged failure of the boards of conciliation to bring about agreements between the employers and employes, Parliament concluded that it was useless to force the parties to carry their disputes before them. In 1901, therefore, the law was so amended as to enable the unions to take their disputes directly to the court. Between that time and 1908, the boards of conciliation played a very small part in the settling of industrial disputes or the regulation of wages in New Zealand. The reason commonly alleged for the failure of the boards was their incompetency. As a general rule, they were composed of men who had no practical knowledge of the business which they were trying to regulate. For this reason, it is said, employers lost all confidence in them.

Between 1894 and 1908, the greater part of the industrial disputes of New Zealand were settled by court decisions. As the number of these industrial disputes increased and the questions coming under the court's jurisdiction multiplied, the court naturally became overburdened with work. It was, therefore, evident that even in a small country like New Zealand, with a population of about one million, a single court, even with all the aids which the law empowered it to invoke, could not provide the necessary machinery for the settlement of industrial disputes.

The inability of one court to cope with the increasing number of industrial disputes and to settle all the questions giving rise to and arising out of such disputes com-

[21]Broadhead, op. cit., p. 20.

CHAPTER III

COMPULSORY ARBITRATION SYSTEM OF NEW ZEALAND

The first attempt at complete and wholesale regulation of the labor contract in recent times was made by the British colonies in Australasia. Other modern countries, for the most part, have satisfied themselves with regulating hours and working conditions, and they have been very slow to fix the amount of the laborer's remuneration. Australia and New Zealand not only attempt to regulate by law hours and working conditions, but also the amount to be paid to the laborer for his work. Legislation in this matter in the colonies has developed along two different lines. The Australasian colonies were anxious to put an end to industrial disputes and for this purpose established courts of conciliation and compulsory arbitration. They desired to see an end of sweating and so established a system of wages boards. These systems were inspired by different sets of circumstances, and seemed, at first, to have been created for distinct purposes, yet if we follow them in the process of their development and application we shall find that they are, in last analysis, the same, for both commit the State to the policy of complete regulation of the labor contract.

For nearly half a century before this time, the European countries had been trying to grapple with industrial disputes and sweating. For the purpose of composing industrial disputes, England had established her councils of conciliation in 1866, which were again modified by the legislation of 1872. France had her councils of conciliation which were established for the same purpose. Many of our American States had, also, made provisions for the settling of industrial disputes. But in England, France and the United States, the State was satisfied with intervening for the purpose of bringing employers and

employes together. Once the employers and employes had been brought together, they were to be urged to select their own representatives on the conciliation boards, and their representatives were to elect an outside chairman who was to act as an impartial umpire between the two contending parties. This was as far as any European country had gone in the settlement of industrial disputes when the Australasian colonies established their system of compulsory arbitration. Similarly, in regard to sweating, all modern countries had been satisfied with the indirect remedies for it, such as the compulsory registration of outworkers and the improvement of the sanitary conditions of their homes. Not one of them went so far as to strike at the very root of the evil of sweating by increasing the wages of the sweated workers. It remained for Australia and New Zealand to pave the way for the other countries in the solution of this important problem.

When the Australasian colonies first adopted a system of compulsory arbitration it was not thought that the courts would have to pass on so many things connected with the labor contract. The originators of the system believed that there was some kind of custom determining wages and other things connected with the labor contract, and that the only thing which the courts would have to do would be to discover and interpret this custom. Similarly, when the wages board system was adopted, its framers merely thought at first of applying it to remedy conditions in certain sweated trades. Never for a moment did they think of its taking the place of collective bargaining in all matters pertaining to the labor contract. But their hopes and expectations were even more disappointed here than in the case of compulsory arbitration.

The first Industrial Conciliation and Arbitration Act in Australasia was passed by New Zealand in 1894. That colony had experienced a period of industrial depression in the 80's. About 1890 there was considerable agitation concerning the evil of sweating, which was supposed to

exist in some cities in the colony. A commission was, therefore, appointed to investigate this evil, but it discovered that the rumors about sweating in New Zealand were unfounded. However, to make provision against its possible development in the future, the commission advised the creation of boards of conciliation and arbitration based upon equal representation of employers and employes. In the year in which the commission made its report the great maritime strike broke out in Australia as a result of the demand of the seamen for increased wages which had been flatly refused by the shipowners. The strike soon spread to New Zealand. The seamen's union there called out all the men working on board the ships of the Union Steamship Company, alleging as their reason the fact that the owners belonged to the shipowners' association which had been recently formed in Australia and which was carrying on the fight against the seamen of that country. Another reason alleged by the seamen's union for its action was the fact that the Union Steamship Company was beginning to man its steamships with non-union men. After lasting for a period of three months the strike ended in a victory for the employers and an almost total demoralization of the union.[17]

Soon after the great maritime strike the New Zealand unions entered the field of politics with the hope of obtaining by law what they had been unable to obtain by collective bargaining. In the next election they threw all their support to the Liberals who were thereby returned to power. In order to fulfill its pledges to the labor element of the country, and to satisfy the general demand for some measure for the prevention of industrial disputes, the newly-elected Liberal Party introduced a compulsory conciliation and arbitration bill into Parliament in 1892, but, owing to the opposition of the upper house, it did not succeed in becoming law until 1894.

[17]Broadhead, State Regulation of Labor and of Labor Disputes in New Zealand, p. 4.

The purpose of the Industrial Conciliation and Arbitration Act passed by the New Zealand Parliament in 1894, according to its author, Mr. Reeves, was to prevent the recurrence of industrial disputes and to provide a remedy for the evil of sweating. But neither Mr. Reeves nor the other members of Parliament realized what a great task the State was taking upon itself in trying to cope with these two industrial phenomena. Parliament is described as only mildly interested in the measure, scarcely half the members attending the debates upon it during the session. Mr. Reeves did not realize how far he was carrying the principle of State intervention in the labor contract. He thought that ninety-nine out of a hundred of the industrial disputes would be settled by conciliation.

The machinery of the Industrial Conciliation and Arbitration Act consisted of one court for the whole colony, and a board of conciliation in each of the eight industrial districts into which the colony was divided. The arbitration court consisted of one judge from the supreme bench appointed by the governor, and two assessors appointed on the recommendation of the industrial unions of employers and of employes. The boards of conciliation in each district consisted of five members, two elected by industrial unions of employers, two by industrial unions of employes, and one outside chairman elected by the representatives of both parties.

Under the New Zealand act only industrial unions or associations of employers or employes can initiate proceedings before the court in cases of industrial disputes. An individual employer or employe may, however, be summoned before the court for violation of its decrees.[18] The law itself makes provision for the formation of industrial unions or associations. Any three bona fide employers or fifteen employes may form a union or asso-

[18] Clark, The Labor Movement in Australasia, p. 160.

ciation. All that is necessary is that they make an application for registration and that this application be accompanied by a list of the members and officers of the union, and a copy of the resolution in favor of registration passed by a majority of the members in a meeting specially called for that purpose. Registration makes the union or association a legally incorporated body having all the rights and obligations of such bodies. It may be sued or sue in its own name; it may appear before the court or board as one of the parties to an industrial dispute.[19] When the court gives a decision, or an industrial agreement is entered into before a board, it becomes binding on the industrial unions of employers and of employes, both individually and collectively, in the particular trade to which it applies. Unions may, at any time, cancel their registration on making application to the court registrar who gives a six months' notice of the cancellation of registration. The cancellation of registration, however, does not free the members from the obligation of an industrial agreement or award until the period for which such an award or agreement has been made comes to an end.[20]

According to the Industrial Conciliation and Arbitration Act of 1894, industrial disputes had, at first, to be referred to the Board of Conciliation in the district in which they arose. If the Board succeeded in inducing the parties to come to an agreement, the agreement was filed with the clerk of awards, and, thereby, became binding on both parties. If the Board did not succeed in bringing about an agreement, it was to file a recommendation which was to acquire the force of a law inside of one month unless either party in the meantime filed an objection. When an objection to the recommendation

[19]Industrial Conciliation and Arbitration Act of 1908, secs. 5, 6, 7, 8 and 9.

[20]Industrial Conciliation and Arbitration Act of 1908, secs. 21 and 22.

was filed, the dispute was to be taken before the Industrial Arbitration Court.[21]

Out of a total of 206 cases brought before the boards of conciliation, between the time of the law's coming into operation and December 31, 1901, only fifty-four were completely settled by them; two were partly settled; eight cases were withdrawn and 145 cases were appealed to the court. Owing to the acknowledged failure of the boards of conciliation to bring about agreements between the employers and employes, Parliament concluded that it was useless to force the parties to carry their disputes before them. In 1901, therefore, the law was so amended as to enable the unions to take their disputes directly to the court. Between that time and 1908, the boards of conciliation played a very small part in the settling of industrial disputes or the regulation of wages in New Zealand. The reason commonly alleged for the failure of the boards was their incompetency. As a general rule, they were composed of men who had no practical knowledge of the business which they were trying to regulate. For this reason, it is said, employers lost all confidence in them.

Between 1894 and 1908, the greater part of the industrial disputes of New Zealand were settled by court decisions. As the number of these industrial disputes increased and the questions coming under the court's jurisdiction multiplied, the court naturally became overburdened with work. It was, therefore, evident that even in a small country like New Zealand, with a population of about one million, a single court, even with all the aids which the law empowered it to invoke, could not provide the necessary machinery for the settlement of industrial disputes.

The inability of one court to cope with the increasing number of industrial disputes and to settle all the questions giving rise to and arising out of such disputes com-

[21]Broadhead, op. cit., p. 20.

pelled New Zealand to make a new trial of the method of conciliation. In 1908, the Parliament of the colony authorized the governor to appoint four commissioners of conciliation, each for a period of three years.[22] When an industrial dispute arose in any industry, one of the commissioners was to repair immediately to the place and was to use every means in his power to bring the parties together. In case of failure to bring the parties together, the commissioner was authorized to form a council of conciliation. Employers and employes were to nominate a number of persons to represent them and the commissioner was authorized to select three persons from those nominated by each side to act as members of the council of conciliation. The method of procedure to be adopted by the councils of conciliation was in all respects similar to that of the boards of conciliation as these had existed prior to 1901. Every dispute in which industrial unions of employers and of employes were concerned had first to be referred to a council of conciliation before being brought before the court of arbitration. If the parties came to an agreement it was to be filed with the clerk of awards and thereby acquired the force of law. If the parties failed to come to an agreement, a recommendation was to be filed, with the clerk of awards which would acquire the force of law within one month if neither party in the meantime entered an objection. When either party to the dispute filed an objection the case was to be brought before the court for final adjudication. This second experiment made by New Zealand in industrial conciliation has been far more successful than the first. Since 1908, the greater part of the industrial disputes have been settled by conciliation. Up to March 31, 1912, the number of disputes brought before the councils of conciliation was 119. Out of these, eighty-six were settled by mutual agreement,

[22] Industrial Conciliation and Arbitration Amendment Act of 1908, secs. 27, 28, 29. Compulsory Arbitration in New Zealand by James E. Le Rossignol and William Downey Steward. Quarterly Journal of Economics, August, 1910.

nineteen were partly settled in this way and only fourteen were wholly referred to the arbitration court.

In order to settle industrial disputes the arbitration court of New Zealand is empowered to pass on all questions connected with the labor contract which give rise to such disputes. The court has, therefore, full and complete powers of regulating wages, hours and working conditions generally as well as the number of apprentices in those trades in which apprenticeship is required and also the wages and conditions of apprenticeship. It fixes general rates of wages, both by time and piece, and has even gone so far as to grant preference to unionists on condition that the union rules be such as to allow any person working in the trade to become a member. Its general regulations in regard to wages, and especially in regard to piece rates, do not posses the same flexibility as those of a trade union. For instance, we find many questions which are matters of collective bargaining in an industry like mining but which cannot be covered by a general agreement.

The advocates of compulsory arbitration contend that the demands of the laborer can be better satisfied and the welfare of the community, as a whole, better attained by law than by collective bargaining. They contend that collective bargaining often breaks down and subjects the community to a condition of industrial warfare with its resultant evils. This warfare with all its bitter consequences, they believe, can be avoided by passing a compulsory arbitration law. Such a law, they contend, would make a vast improvement in the present condition of workers; for those who experience the benefits of trade unionism at the present time are only a small per cent. of the great body of workers who have nothing to protect them against a one-sided bargain, against the oppression of employers and against poverty wages. Even the organized workers, it is asserted, will be better off. They will feel more secure under a system of compulsory ar-

birtation than under a system of voluntary arbitration, for they will not be exposed to the ruinous consequences of strikes; they will not be exposed to the danger of having their unions disorganized and themselves reduced once more to the condition of the unorganized workers.

It was such ideals as these that moved the New Zealanders to enact a system of compulsory arbitration. As to how far these ideals have been attained, the experience of the past twenty years can, at least, give us a partial answer. It is frequently asserted that New Zealand is a land without strikes. This, of course, can be true only in so far as the workers of the colony come under the jurisdiction of the arbitration court and observe its decrees. In 1912, only a little over one-fifth of the workers of New Zealand (60,622 out of an estimated total of 300,000) belonged to registered unions and, therefore, came under the court's jurisdiction. The other four-fifths of the workers may, at any time, have recourse to strikes in order to obtain an increase of wages, shorter hours, or improved working conditions. During the period between 1896 and 1906, the law was very effective in preventing strikes among the workers to whom it applied, but the same cannot be said of the period between 1906 and 1913. The number of strikes which took place in New Zealand in this latter period amounted in all to sixty-three, thirty of which were in open violation of the awards of the court. This number does not appear to be very large but it must be remembered that the number of strikes in New Zealand was never very large. The constantly increasing prosperity of the colony during the past quarter of a century has tended to mitigate those abuses which strikes are intended to remedy. In view of the increasing prosperity all recognized the necessity of an increase of wages when the law was first passed. This fact of itself naturally facilitated the work of the court and, of course, the workers were well satisfied with its awards so long as they were being granted a constant

increase of wages. It was only about 1906, when the court no longer granted the same increase of wages, that the workers began to grow dissatisfied with its awards and to criticize the action of the court. The first evidence of dissatisfaction appeared in the seamen's union which was denied an increase of wages on the ground that no substantial change of conditions had taken place since the last award went into effect.

The first strike under the New Zealand Act took place on the Auckland Tramways in November, 1906. Two men had been dismissed by the company for refusing to teach beginners, and as a protest against their dismissal all the employes of the company went out on strike six months later. Soon after the strike had been declared the employers and employes of the company held a conference, which resulted in the company's consenting to take back the men who had been dismissed. Some time later both the employers and employes were brought before the court. The employers were charged with dismissing a number of men without due notice. The court held that this act of the employers was a violation of the law and accordingly imposed a penalty of five pounds, with costs. The men were charged with aiding and abetting strikes for which they were fined one pound each by the court. In February, 1907, the slaughtering men employed in the freezing works in the neighborhood of Wellington, struck for higher wages and better working conditions. This strike ended in a complete victory for the men, the employers having been forced to accede to their demands at every point. The members of the slaughteringmen's union were later brought before the court for violating the provisions of the Act, but were exonerated on a mere technicality.[23] Since 1907 no year has passed in New Zealand without its quota of unlawful strikes. In October,

[23]Aves, Report to Secretary of Home Department on the Wages-Board and Industrial Conciliation and Arbitration Acts in Australia and New Zealand.

1913, a strike was started by a branch of the Waterside Workers' Union at Wellington which theatened to be the largest ever experienced in the history of the colony. No sooner had the waterside workers gone out on strike than they were joined by those of Lydelton, Auckland and Dunedin, thus bringing the number of those on strike to about 5,000. About 2,000 miners and 5,000 others workers also went on strike at the same time. For a while it seemed as if this strike was going to break down the whole legal machinery of the Industrial Conciliation and Arbitration Act. The government, however, was finally able to foil the projects of the strikers and compel them to conform to the decree of the Arbitration Court.[24]

One reason for emphasizing these strikes which have occurred in New Zealand since 1907 is to give the reader an idea that industrial peace is still a long way off in this land of radical social reforms. The conclusion which may be legitimately drawn from these strikes in New Zealand is that complete State regulation of the labor contract is far from being a universal panacea for industrial disputes, the reason being that it is very difficult for the State to enforce laws to which a large and strongly organized body of its citizens is opposed. It may be that compulsory arbitration has proved to be a two-edged sword; that it had provided a remedy for many industrial disputes which otherwise might have ended in long-drawn out conflicts, but that at the same time it has given rise to a needless multiplication of disputes and, therefore, to a State regulated labor contract in many instances where it was altogether unnecessary.[25]

As has been already noted New Zealand in order to settle industrial disputes by judicial decisions had to find a legal or judicial solution for the various questions arising between employers and employes which might

[24]General Strike in New Zealand, in American Economic Review, June, 1914. By J. E. LeRossignol.
[25]Aves, op. cit., p. 103-107.

give rise to such disputes. Among the most important of these was the question of wages. The court was, therefore, called upon to determine minimum rates of wages for workers of all grades, for those who were very poorly paid as well as for those who were well paid. In regard to women's wages, however, the sphere of the court's action was rather restricted; for the law prescribed a flat rate of not less than 5*s* ($1.20) a week as the minimum amount to be paid to boys and girls under sixteen years of age, from the first day of their employment in any industry; this minimum to be thereafter increased at the rate of 3*s*. ($.72) a week at the end of each year of employment, until it reached the sum of 20*s*. ($4.86) a week. This provision seems to have practically removed the question of women's wages from the sphere of the court's action. Only in one case in the clothing trade was it called upon to make an award[26] in women's wages between 1894 and 1907.

In the beginning, the task of the court in determining wages was comparatively simple, for all recognized the necessity of an increase. It was only after a general level of wages had been reached and all were receiving fairly high wages that the work of the court became specially difficult. Employes could not then present the same cogent reasons for a further increase. The only basis, therefore, on which a further increase of wages could be demanded was the increase of profits, an argument which, although sometimes influencing the decision of the court, was never generally accepted as a basis for regulating wages, for the reason that it was impossible to fix any general standard rate of wages based on profits. What might seem a fair wage in one industry from the point of view of profits, might be ruinous to other industries whose existence was equally necessary to the community. The court was then in a dilemma between satisfying the

[26] Aves, op. cit., 88.

demands of employes and placing a serious obstacle to the industrial progress of the country. But the industrial progress of the country could not be sacrificed in order to satisfy the passing demands of the workmen. The courts have, therefore, been compelled to deny an increase of wages in very many instances, with the result that the laborers have become very critical and dissatisfied,—so much so that many of them have declared their willingness to return to the old methods of dealing with their employers.

The New Zealand court has been authorized to grant permits to infirm, old or slow workers to work for less than the minimum fixed by the court award. Originally this function belonged to the unions, but so many were the abuses of the power of the unions in the matter that it was found necessary to have it taken over by the court. The unions were naturally opposed to granting a large number of permits, for they knew that the number of inefficient workers would be greatly increased thereby, and they feared lest these might come to take the place of the efficient workers. By reason of the attitude of the unions towards the permit question, the worker who could not earn the minimum prescribed by the court found it very difficult to obtain any employment at all. In 1908 the law was so modified as to enable those desiring permits to apply directly to the court, but the court before granting permits must still consult the union to which the worker seeking for a permit belongs.

Since 1900 the New Zealand system of compulsory arbitration has been introduced into most of the Australian states. In Western Australia and also in the Australian Commonwealth, the courts are the only institutions for settling industrial disputes and regulating other questions arising between employers and employes. In Victoria, New South Wales and South Australia the court operates side by side with special boards, which will be discussed in the next chapter. These are made up of an

equal number of employers and employes and an outside, non-partisan chairman.

They determine wages and working conditions, but there is always the right of appeal to the courts against their determinations. The first state of the Australian continent to establish a compulsory arbitration court was New South Wales. Like the New Zealand law, that of New South Wales did not provide for any district boards of conciliation. As a concession to the opposition of employers, the first New South Wales law was made a temporary measure to be suspended in 1908. In that year it was replaced by a sort of a dual system in which the special boards worked in conjunction with the arbitration court. In 1902, Western Australia provided for a system of industrial conciliation and arbitration almost exactly similar to that of New Zealand. District boards of conciliation were provided for, but, as in New Zealand, they have been a failure and have practically been unused since 1903. In 1904 the Commonwealth Parliament passed its Industrial Conciliation and Arbitration Act for the purpose of settling disputes in industries which do not fall within the jurisdiction of any state. The Commonwealth act provides for an Industrial Arbitration Court for the whole country, consisting of one judge from the supreme bench. No provision is made as in New Zealand and Western Australia for district boards of conciliation. With the passing of the excise tariff in 1906, since declared unconstitutional, it looked as if the commonwealth court was about to assume a very important position in regulating the labor conditions of the whole country. This excise act imposed duties on certain imported articles, with the provision that the court could remove these duties in particular instances if it was persuaded that persons employed in their manufacture were receiving fair and reasonable wages.

CHAPTER IV

WAGES BOARDS IN VICTORIA

The Australasian experiment in wage legislation which has the greatest interest for Americans at the present time is the Victoria wage board system, both on account of the recent adoption of a similar system in several of our states for women and minors and because of the movement for its adoption in other states. Victoria has always been the premier state in Australia in factory legislation, but notwithstanding its strict factory laws, sweating still continued to exist within its borders. Victoria, however, was determined that so far as it was concerned, an end should be made of sweating. As early as 1882, a Royal commission was appointed to investigate the sweating evil in the principal cities of the state. As a result of the report of this commission, a strict code of factory laws was drawn up in 1885. In 1890 fresh legislation was passed, but in spite of this legislation sweating still continued.[27] In 1893, a Parliamentary Board was appointed to inquire into and report on the working of previous legislation.[28] The result of this investigation was the passing of the Factories and Shops Act of 1896, which made provision for the creation of special wages boards in certain sweated trades—clothing, wearing apparel, including boots and shoes, furniture and

[27]For a more complete account of this legislation, see Reeves State Experiments in Australia and New Zealand, p. 7.

[28]This investigation of the Parliamentary Board found the home workers at Melbourne earning miserably low wages; it found that home work was on the increase and that the factories were suffering as a consequence and it also found that the native workers were suffering as a result of the great increase of Chinese labor, especially in the furniture trade. The board, however, did not go so far as to recommend the legal regulation of wages as a remedy for sweating. The plan embodied in the legislation of 1894 was first conceived by Sir Alexander Peacock. Sir Alexander thought that the law should do for the unorganized workers what collective bargaining had done for the organized workers. (See Hammond, Quarterly Journal of Economics, vol. XXIX, no. 1, pp. 105, 109.)

bread-baking.[29] In 1900 the trade of butcher was added to those already included under the law, and provision was made for the creation of boards in other trades. It was provided that as the occasion arose, Parliament might, on application from the employers, employes or labor department, authorize the creation of a special board in any other trade.[30] The employes may apply for a board to increase wages or to improve working conditions. Employers may apply for one, in order to put an end to unscrupulous competition; or when already bound by board determination, they may apply for the creation of a board or boards in competing industries.[31] In 1903, a court of industrial appeals was established in Victoria to which appeal might be taken from the determination of the special boards.[32] So far as its administrative features are concerned, the law of 1903 remains practically unchanged to the present time. In regard to the sphere of the application, it has been made a good deal more definite and specific. It was possible for the sweating subcontractor under the law of 1903 to employ Chinese labor and thus evade the provisions of the law. Such an evasion is impossible under the present law; for the definition of a factory has been so extended as to include all places in which one or more Chinese persons are directly or indirectly employed. Under the provisions of the present law are also included all places in which one or more persons are employed in the manufacture of furniture and all places in which one or more persons are employed in the baking of bread for sale.

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[29]Aves. Report to Secretary of Home Department on the Wages Boards and Industrial Conciliation and Arbitration Acts in Australia and New Zealand, p. 12. It is interesting to note that Mr. Peacock, who introduced the bill intended that it should only apply to women and children, but in this he was overruled by Parliament. Hammond, Quarterly Journal of Economics, vol. XXIX, p. 111.

[30]The scope of the law was thus extended in response to the demands both of employers and employes.

[31]Aves., op. cit., p. 17. Hammond, ibid., p. 120.

[32]Hammond, ibid., p. 144.

Under the Victoria system wages are fixed not by a court, which, however well considered its decisions may be, cannot have the necessary technical knowledge to secure equal justice all around, but by a board whose members are supposed to be acquainted with the technical details of the business. The special wages boards in Victoria are made up of not less than two and not more than five employers, together with an equal number of employes and an outside non-partisan chairman. The representatives of the employers and employes are nominated by the minister of labor, by notice in the government gazette. Unless either one-fifth of the employers or employes object to the nominees of the minister, the nomination is confirmed. If they object, an election is held in which every employer and every employe over eighteen years old has a vote. The chairman of the board is appointed by the governor from those nominated by the members.[33]

The special boards have power to determine minimum rates of wages both by time and piece. The piece rate must be so arranged as to enable those working under it to earn at least the minimum specified for time workers in the same trade. Boards also have power to determine the maximum number of hours for which the workers are to be employed, and they may fix special rates for overtime. When the board has made its determination, it is published in the government gazette and becomes a law within thirty days unless suspended by the governor or revoked by the court of industrial appeals.[34] The governor may suspend any determination of a board or award of a court, for a period not exceeding six months, if he thinks that the condition of the business in question demands such suspension.[35] In case of an

[33] Factories and Shops Act of 1912, sec. 137.
[34] Act of 1912, sec. 144.
[35] This power was given to the governor by an amendment made in 1897 as a result of a protest of the Boot and Shoe Manufacturers, Hammond, ibid., 124.

impending strike in the business, the governor is authorized to suspend a determination or award for a period not exceeding twelve months. In the meantime, the board reviews the case and if it finds no good reason for changing its determination, it notifies the governor to that effect and the suspension is revoked.[36]

Appeal may be taken from the determination of any board to the court of industrial appeals, 1) by the minister of labor; 2) by a majority of the representatives of the employers or employes; 3) by any employer employing not less than 25 per cent. of the workers in any trade; 4) by 25 per cent. of the workers in any trade.[37] When the court makes an award in a trade it cannot be reviewed at a future time by any board without the express permission of the court.[38]

The principal object which the Victoria legislature had in view in 1896 was to provide a remedy for the evil of sweating in the bread-baking, furniture and the various branches of the clothing trade. It scarcely thought of entirely substituting the principle of legal regulation for that of free contract as a means of determining wages. Such, indeed, has been the case.[39] The wages of the vast majority of the workers in Victoria are now determined by law and not by free contract. A condition of status has thus come to take the place of free contract. And the fact that both sides have a say in the regulation does not change the situation very materially. The representatatives of the employers and employes come together with essentially different and conflicting notions of what fair wages and fair working conditions in a trade ought to be. This may not be so true when a law of this

[36]Factories and Shops Act of 1912, sec. 84.

[37]There have been only nine cases of appeal to the court up to the end of 1913. In six of these cases, wages were reduced. In one, wages were raised; in one, hours were increased; in one case, the court upheld the determination of the board.

[38]The court gave the board power to review the Boilermakers' case in 1912; the Fellmongers' case in 1912; the Hairdressers' case in 1913; the Icemakers' case in 1913; and also the Starchmakers' case in 1913.

[39]Die Lohnämter in Victoria. Robert Boehringer, p. 41.

kind first comes into effect. Wages of certain classes of workers may be so low that employers cannot reasonably object to an increase. But outside this class of very poorly paid workers it will be very difficult to secure unanimity among the members of the board. Sometimes a compromise is effected, but it is effected under legal duress, for the party which is opposed to the compromise realizes that something worse may be forced upon it by the chairman, who is really the judge in the case. In some instances any compromise will be impossible. Then it will rest with the chairman, who is really the judge in the case, to determine on which side justice lies.

The chairman, therefore, occupies a very important position in the Victorian special boards. His position is really that of a judge and unless he is specially acquainted with the technicalities of the trade and has a special skill in drawing out the best points brought forward by both sides, the special boards will differ little from an arbitration court. For this reason it is all-important that some person of business experience be chosen as chairman of a board and that the same person continue to devote the whole or a greater part of his time for this work. In Victoria, business experience does not seem to enter very largely into the selection of the chairmen of the special boards. It may possibly be very difficult to secure persons of business experience who are capable of maintaining a strictly neutral position. In Victoria, however, there seems to be some disposition to look upon the chairmanship of the boards as a special calling in which the same persons should be perpetuated. Between 1896 and 1907 one person presided as chairman over twelve boards and another over eight.

Up to December 31, 1913, one hundred and thirty-one (131) special boards had been created in Victoria, affecting 150,000 workers.[40] One hundred and twenty-nine of

[40]Report of Chief Inspector of Factories, 1913, p. 7.

these boards had made determinations under which were included workers of all kinds from the most highly skilled and best paid to those in the sweated trades, where very little skill is required and where wages had been very low. Naturally those who have profited most by the board determinations were the poorly paid workers. The increase of wages received by this class of workers was very noticeable, being, on the average, 55 per cent. Thus the brushmakers' wages were increased from $5.64 to $10.66 a week, or 89 per cent., and the dressmakers' from $2.92 to $6.77, or 132 per cent. As we ascend the economic scale and come to those receiving fairly good wages, the increase was not so marked. Thus the butchers' wages were increased from $9.20 to $11.06, or 20 per cent.; and the printers' from $9.25 to $12.67, or 37 per cent. The class receiving the smallest increase of wages was that of the highly skilled and best paid workers. Thus the bricklayers' wages were increased from $15.29 to $17.56, or 14 per cent., and gold miners' from $10.88 to $12.05, or 11 per cent.

When Victoria began to regulate wages by law in 1896, it did not adopt any definite principle upon which to base its regulations. In the beginning, of course, the necessity for such a principle was not so keenly felt, for the operation of the law was confined to the sweated trades, in which all felt that an increase of wages was necessary. In granting this increase the boards would naturally start from a cost of living basis. The increase granted would be based on the board's estimate of the amount necessary to maintain the workers in health and efficiency. The board's estimate, however, was not based on any scientific data in regard to the cost of living. It satisfied itself with the ordinary every-day knowledge in this matter.

As the number of boards increased and as the regulation of wages became more general, it was felt that some principle should be embodied in the law to guide

the boards in their determinations. It was for the purpose of establishing such a principle that the government incorporated the respectable employers' clause in the legislation of 1903, obliging the boards to base their determinations on the wages paid by respectable employers in each trade. But this clause rather retarded than facilitated the work of the boards. There was room for considerable difference of opinion about the meaning of the phrase "respectable employers." The members of the agricultural board could not arrive at any determination because the representatives of the employers and employes held conflicting opinions about the meaning of the "respectable employer" clause. This clause also prevented the members of the cycle board from arriving at a determination because they felt that they could not, in view of it, establish a sufficiently high minimum. By reason of the difficulties which it created, Parliament, at the suggestion of the minister of labor, repealed the "respectable employers" clause in 1907.

A number of authorities on Australasian wage legislation point to the well-known decision of Justice Higgins, of the Commonwealth Court, as paving the way towards the adoption of a new principle in wage determinations in the Australasian colonies. Justice Higgins concluded that the wages of the unskilled workers ought to be such as to satisfy their needs as normal human beings in a civilized community. In regard to the skilled workers, he believed that the same ratio should be maintained between their wages and the wages of the unskilled as existed before the board's determination. If, therefore, an unskilled worker was granted an increase of 5 per cent. in his wages by the board, Justice Higgins thought that the same increase should be granted to the skilled worker. The decision of the Commonwealth Court has done a great deal towards fostering a more scientific employment of the cost of living basis as a method of

determining wages in Victoria and other Australasian states.

One of the main difficulties experienced in the fixing of a minimum wage in Victoria was the making of provision for those who were unable to earn the prescribed minimum. The law provided for the granting of permits to the infirm, old, or slow workers. It authorized the inspector of factories to grant permits to such workers, provided the number of them in any factory did not exceed one-fifth of the total number of workers employed. At first the workers had to give proof of age, infirmity or other disability in order to obtain a permit to work for less than the minimum. Now the fact that a worker is unable to earn the minimum is a sufficient qualification for the obtaining of a permit. Since 1907 the problem of those incapable of earning the minimum has been looked upon as a problem demanding the special attention of the boards. The boards have been authorized to fix special rates affecting the infirm, old and slow workers.

Even with this special provision for the fixing of a lower rate of wages, the problem of those unable to earn the minimum has by no means been solved. Many have been altogether displaced by the board determinations. Some employers in Victoria, it is said, dismissed sixty or seventy hands when the law went into effect.[41] "It has been my duty," wrote the chief inspector of factories in 1898, "to listen to the histories of the old and slow workers. No duty has been more painful to me and none feels more than I do, that some provision should be made for such workers"[42] The problem of displacement will become all the more serious when there is a surplus of labor and a falling market. Neither phenomenon has so far been experienced in Victoria. There has been a continuous complaint among the manufacturers of this and other Australian states in recent years, about the

[41]Clark, Labor Movement in Australasia, p. 33.
[42]Aves, op. cit., 60.

scarcity of labor. Since 1896 Victoria has enjoyed a period of almost unbroken prosperity. Industry seems to have increased faster than population. These two facts have, undoubtedly, minimized the difficulties of minimum wage legislation in that state. They have undoubtedly prevented the displacement of the weaker workers from becoming as serious a problem as it might have become in other countries with a surplus population and subject to constant market fluctuations. These facts should prevent us from drawing any dogmatic conclusions about the effects of minimum wage legislation in Victoria or the applicability of such legislation to other countries, at least in the same form and to the same extent in which it has been applied in Victoria. They render the Victoria experience less useful than it otherwise might be.

How far the increase of wages in Victoria during the past eighteen years has been due to the special boards and how far to general economic causes, such as the scarcity of labor and increasing prosperity, it is very difficult to say. The board determinations have in all probability increased wages in the sweated trades to a greater degree than could otherwise have been the case. In the clothing trade, which is the most important trade in Melbourne, there existed a considerable amount of sweating prior to 1896. The increase of wages in this trade has been very noticeable. According to the report of the factory inspector, the average wages of the 1,105 adult males employed in the clothing industry in 1913 was $14.60 a week, and the average wage of the 4,683 adult females was $6.67 a week. Before the creation of the board in 1896, the average wages of all the 3,383 adult workers employed in this industry was $4.86 a week.[43] Furniture is the only trade in which a remnant of sweating still persists. The presence of Chinese labor has complicated matters considerably in this trade. The strictest possible measures have been taken to prevent

[43] Report of the Inspector of Factories, 1913, p. 144.

the Chinese from evading the law. Every place where a Chinaman is employed has been declared a factory, and, therefore, subject to the provisions of the law in regard to registration and compliance with board determinations. No Chinaman is allowed to work before the hour of 7.30 a. m. or after 5 p. m. But in spite of these strict measures, the Chinese still continue to evade the law.

In Victoria, labor unions do not constitute a necessary element in the framework of the law as they do in New Zealand. The first concern of the Victoria law was the workers in the sweated trades, where no organization existed and where there was very little hope of effecting any organization. The law at first took the place of organization in sweated trades. It did not presuppose organization or make any provision for it as did the New Zealand law. The fact that the workers were called upon to select their representatives on the boards must, however, have given considerable impetus to organization among them. The main purpose of organization, it is true, was fulfilled by the law; yet there was considerable danger that the law might not be properly administered and that employers might exercise too much influence on the determinations of the boards if the workers were not organized. These facts, in all probability, account for the large percentage of unionists among the workers under board determinations. In 1911, 80 per cent. of all the workers subject to board determinations were members of trade unions.

If the efficiency of employers and employes remained the same, a natural result of the increase of wages granted by board determinations would be an increase of prices. This would be specially true of industries depending on a local market. The same would be true in Australia of industries with a state-wide or a nation-wide market, for most of the industries of that continent are working under wages boards' determinations or court decisions. But that prices have been increased

as the result of board determinations is by no means certain. Increased wages have in all probalility increased the average efficiency of employers and employes. The sphere of competition has been changed from the labor market to the field of business organization. The skill and foresight of employers are now directed towards the securing of a better business organization and more efficient methods of production.

A criticism of the Victorian system, which one frequently hears, is that it has decreased the wages of the more efficient workers, thereby tending to lessen their efficiency. This criticism cannot be applied exclusively to a legally determined wage. It is also true in some degree of the standard rate of trade unionism; and in regard to every force, whether economic or legal, that standardizes wages, hours or working conditions. Both collective bargaining and legal regulation, while they increase the wages of a fairly large number of workers, have a tendency to lower the wages of a small minority. But this tendency should not be exaggerated as is frequently done. It should be accepted with some important qualifications, as we shall see more at length in a later chapter. This much, however, may be said in passing: that we find many trades, especially those demanding little skill, in which a flat rate of wages already exists; that competition will still continue to influence the wages of the more skilled workers, and employers will be obliged to pay them wages higher than the minimum fixed by law.

The Victoria system was introduced into South Australia in 1900. At that time authority was given to the minister of labor to establish boards in the clothing, boot and shoe and furniture trades, and such other manufacture, trade or process as Parliament might in the future decide. Up to the end of 1912, fifty-six boards were created under this act, covering 25,000 employes. In 1910 a wages board system almost exactly similar to

that of Victoria was introduced in Tasmania. In 1908 New South Wales, Queenland and Victoria adopted a combined system of wages boards and industrial conciliation and arbitration. In each of these states courts were established for the purpose of settling industrial disputes. Provision was also made for the establishment of industrial boards with duties and powers similar to the wages boards of Victoria. Up to April 30, 1914, 208 boards had been created in New South Wales, and ninety-two in Queensland. Every state in the Australian colonies is now trying, and has been trying for some time past, to secure a living wage for its workers by law. As we have seen, the machinery devised for this purpose is of two kinds. Victoria has adopted a wages board system, and New Zealand a system of industrial conciliation and arbitration. Some of the other states have tried a combination of the two systems. The ideal which the Australians set before them has been fairly well attained. Wages in all the states are high, and especially the wages of unskilled workers. From this, however, we should be slow to conclude that legal regulation of wages, at least of all wages, would be effective or practical in other countries.

CHAPTER V

ENGLISH TRADE BOARDS ACT

Ever since 1876, England has been trying to devise a remedy for the evil of sweating. At various times Parliamentary committees have been appointed to investigate this evil and to suggest a remedy for it. The committees have invariably borne striking testimony to the existence of sweating and the disastrous consequences attendant upon it. The facts brought to light by these investigations naturally gave rise to much radical feeling and many proposals for reform. Some farseeing Englishmen thought the only really effective remedy for sweating was the enforcement of a legal minimum wage. To the investigators and the members of Parliament, however, this remedy seemed almost as visionary as the proposal to reorganize industry on a cooperative basis. They thought that the state might intervene for the purpose of protecting the laborer against abnormally long hours and unhealthy working conditions, but they could not see how it could go so far as to regulate wages. The only remedies for the evil of sweating which made any appeal to the conservative Englishman were compulsory registration of outworkers and a stricter administration of factory laws. For upwards of twenty years England tried to apply these two remedies, but sweating still continued. Its evils, in fact, seemed to become all the greater the more highly developed the industrial system became.

English colonists in a far-off and less-developed country were applying the best and most direct means of abolishing, or at least mitigating the evil of sweating, that had been devised by any modern country, but England remained skeptical of the effects of the new remedy that had been employed with such success by her colonies. Englishmen, during those years, were very much con-

cerned with the regulation of hours and working conditions. They could not bear to see the laborer working long hours or under conditions prejudicial to his health and welfare, and they did not make the same objection to seeing him work for wages that were insufficient to provide him with the necessaries of life. They either thought that there was no connection between the amount of wages paid to the worker and his health and welfare, or, if they saw any connection between these two phenomena, they did not think that conditions could be improved by a legal regulation of wages. Through all this period there were only a few faint voices advocating the desirability, feasibility and necessity of a legal minimum wage. As the evils of sweating became more pronounced and as the futility of all other remedies became more apparent, the advocates of minimum wage legislation increased in number.

In May, 1906, an exhibition was organized under the auspices of the London *Daily News,* which presented to the public in a very real and lifelike manner the evils of sweating. Through this exhibition the few who were interested in providing a remedy for sweating were able to arouse the sympathy of the British people at large. As a result of the exhibition, the National Anti-Sweating League for the securing of a minimum wage was organized at a great mass meeting held at Guild Hall, London, in 1907. At this meeting 200,000 workers pledged their support to the newly formed Anti-Sweating League in its compagn for a minimum wage. In the course of its first session two methods of securing a minimum wage were brought up for consideration by the members of the league. The first method was the system of industrial conciliation and arbitration in vogue in New Zealand. This method the league considered it impracticable to introduce in England on account of the opposition of trade unionists to any system of compulsory arbitration. The alternative was the wages board system of Victoria.

The Anti-Sweating League, therefore, determined to strive for the adoption of the Victoria system in England.

In 1907 the Sweated Industries Bill based on the Victoria wages board system and providing for the establishment of trade boards in the tailoring, dressmaking and shirtmaking industries, was introduced into the English Parliament, but Parliament was not yet prepared to act and satisfied itself with the appointment of a select committee for the purpose of investigating the sweating evil. This committee sent a special delegate to Australasia to investigate the results of the two systems which had been adopted there and also conducted an investigation into the evil of sweating at home. After making a thorough investigation of the results of both systems, Mr. Aves, the English delegate, was unable to recommend the adoption of either system in England, at least in the precise form in which it had been adopted in Australasia. But in spite of the unfavorable conclusions of Mr. Aves, the committee relying on the facts presented by him and on the results of its own investigation, recommended the application of the wages board system of Victoria to certain home industries in England in which the evil of sweating was specially prevalent. The members of the Anti-Sweating League were not, however, satisfied to have legislation confined solely to home industries. They felt that it was needed just as much in certain industries carried on in factories. In this the ministry acceded to the wishes of the Anti-Sweating League. Mr. Asquith pledged himself not to confine the legislation which was about to be introduced exclusively to home industries.

In 1909, the British ministry determined to adopt the Victoria wages board system as a remedy for the evil of sweating in certain industries. The special committee on sweating had reported in 1908 "that the wages of a large number of people were so small as alone to be insufficient to sustain life in a most meager manner, even when the workers toil hard for extremely long hours; that the con-

ditions under which they live are altogether pitiable and distressing.'"[44] The ministry concluded that such a condition needed the intervention of Parliament. This did not mean that the State was going to act in an arbitrary manner, without consulting employers in the different trades. The purpose of the ministry was to provide a remedy for certain serious evils which were becoming a menace to the body politic. For this purpose it intended to make use of the good will of the better employers, and to supplement it by outside representation. The more conscientious employers were to unite with the representatives of the public to raise wages and improve the conditions of the sweated workers, and to prevent unscrupulous employers from taking advantage of the weakness of their workers. Outside representation, with the cooperation of the better employers, it was hoped, would do for the workers what they had been unable to do for themselves. In the beginning, it was thought, the sweated workers would be able to do very little for themselves and should, therefore, rely almost altogether on outsiders; but as they experienced the benefits of beneficent legislation, they would be able to rely more and more on their own efforts.

Those who took part in the Parliamentary debates on the Trade Boards Act emphasized very strongly the influence which it would have on trade unionism. They thought that the law itself should give a direct incentive to the formation of unions and that those charged with its administration should be authorized to cooperate with the workers in the formation of trade unions. As unions were formed in the sweated trades, it was thought that the workers would be better able to defend and uphold their own interests, that there would be a greater equality between the bargaining powers of employers and employes. When such a condition was brought about, it would be no longer necessary for the representative of the public to supplement the weakness of the workers.

[44] Parliamentary Debates, House of Commons, vol. 4, no. 45, p. 347.

These, it was thought, would know their own wants, and would be able to formulate their own demands. Then the sole work of the representatives of the public would be to establish harmony between the two contending interests. As far as possible they would try to bring them to an agreement; but where an agreement was impossible, the representatives of the public would decide the case in the manner which in their estimation harmonized best with the interests of both parties and the public at large. Such, indeed, were the ideas of all who took part in the Parliamentary debates on the Trade Boards Act in 1909. Throughout the whole series of debates not one dissenting voice was heard. All were in favor of the law for they felt that the evil of sweating demanded a speedy remedy and that the experience of the last thirteen years had shown that Victoria had devised the best and most direct remedy for this evil. All, therefore, concluded that at least a limited trial should be given to the wages board system of Victoria.

As applied by the English Parliament through the Trade Boards Act of 1909, the wages board system was applied to four trades: 1) ready-made and wholesale tailoring; 2) paperbox making; 3) machine-made lace and net finishing; 4) certain kinds of chainmaking. The law, however, was so framed as to enable Parliament to extend its application to other trades as occasion arose. The Board of Trade might at any time make a recommendation technically known as a provisional order, for the extension of the act to additional trades, if they were satisfied that the rate of wages prevailing in any branch of these trades are exceptionally low as compared with that in other employments, and that the circumstances of the trades are such as to render the application of the act necessary.[45] This recommendation or provisional order was to be laid before both houses of Parliament and in

[45]Trade Boards Act (sec. 1) (Subsec. 2).

case they approved of it, they were to pass a provisional order confirmation act. If, however, an objection was registered by employers or employes, in the trades to which it was proposed to extend the act, Parliament was to refer the matter to a special committee or a joint committee of both houses, in order to find out whether or not the objection had any basis. For the above-mentioned four trades and such others as should be included by provisional order, the Board of Trade[46] was authorized to establish trade boards consisting of an equal number of employers and employes (representative members) together with representatives of the public (appointed members). (Act, sec. 11, subsec. 1.) The representatives of the public were to be less than half the representatives of the employers and employes (Act, sec. 13, sub. 2). The representatives of the employers and employes were to be elected by both parties whenever an election was feasible. When the Board of Trade considered that an election was not feasible it was authorized to select the representatives of the employers and employes from those presented by both parties (Act, sec. 11, sub. 3). The chairman and secretary were to be selected by the Board of Trade from the members of the trade board (Act, sec. 11, sub. 4).

In order that the peculiar needs and circumstances of each district might be taken into account, the trade boards were authorized to set up district trade committees consisting of an equal number of employers and employes in the district, together with at least one appointed member (Act, sec. 12, subsec. 1 and 2). These committees were to investigate the conditions in each particular district and to make recommendations to the trade board for the fixing of minimum rates of wages, both time and piece rates. Whenever a district trade committee deemed

[46]The British Board of Trade is a legal institution with functions similar to our Department of Commerce. Its president is a member of the British Cabinet. In Great Britain, the Labor Department com under the Board of Trade.

it advisable, it might establish a subcommittee to make recommendations in regard to minimum piece rates.

It cannot, therefore, be charged against the Trade Boards Act that it overlooks the opinion of employers in fixing minimum rates of wages. Not only does it take into account the best opinion of employers in general, but also the special needs and circumstances of each district. It was the aim of Parliament in passing this act to take into account the best opinion of employers all along the line. Parliament believed that if wages were raised to the standard of the better paying employers in each trade, the great purpose of the law would be attained. How far Parliament was justified in counting on the cooperation of employers cannot be determined with any definiteness as yet. The meager information which we possess does not at all justify the expectations based on the cooperation of employers. The employers on the paper-box board offered very strong opposition to the increase of wages granted to the workers in this trade. Even after the rate had been fixed, it was repudiated by the employers on the ground that the board could not legally fix a progressive rate of wages.[47] Employers also offered vigorous opposition to the proposed increase for chainmakers in 1913.

After a trade board had been established in any of the trades scheduled under the Trade Boards Act of 1909, it was to proceed to fix a minimum rate of wages.[48] At first the board was to confine itself to the fixing of minimum time rates of wages and employers were to arrange their piece rates in such a manner as to enable the majority of their workers to earn as much as those working under time rates. If any objection was lodged against the piece rates of employers they were obliged to prove that those working under them were able to earn as much

[47] Fifth Annual Report of the National Anti-Sweating League, 1911, p. 8.

[48] Act, sec. 4.

as those working on a time rate basis.[49] Whenever a minimum time rate of wages could not be applied in any trade, the board was to proceed to the establishment of a minimum piece rate in that trade.

Before fixing a minimum rate of wages in any trade the boards are obliged to give a three months' notice of their intention to do so. This waiting period was looked upon by Parliament as a period of education. It was to give an opportunity to all concerned to make objections to the proposed rates. If at the end of three months the trade board was still persuaded that the proposed rates were fair and reasonable, it was to put them into operation. During the succeeding six months the rates were to have a limited operation. Employers were to be bound by them in the absence of a written contract to the contrary and they were also to be binding on all employers doing contract work for the government. At the end of six months, the Board of Trade was to issue an order making the rates obligatory unless the circumstances were such as to make an obligatory order premature and undesirable, in which case they were to make an order suspending the obligatory operation of the rate.[50] Once the Board of Trade has issued an obligatory order all employers in the trade are bound to pay the prescribed rate of wages under a penalty of not less than £20 and £5 for each day on which they fail to pay the minimum after conviction has taken place.[51]

When any worker, owing to infirmity or physical injury, is incapable of earning the prescribed minimum, the trade board is authorized to make provision for such a worker, either by fixing a special piece rate for him or by issuing a special permit allowing him to work for less than the minimum.[52]

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[49] Act, sec. 8 (b).
[50] Act, sec. 5, subsec. 2.
[51] Act, sec. 6, subsec. 1.
[52] Act, sec. 6, subsec. 3.

The administration of the Trade Boards Act was placed in the hands of officials appointed by the Board of Trade. The Board of Trade was authorized to appoint "such officers as they thought fit for the purpose of investigating any complaints or otherwise securing the proper observance of the Act."[58]

[58] Act, sec. 14.

CHAPTER VI

THE TRADE BOARDS ACT IN OPERATION

The Trade Boards Act came into operation January 1, 1910. At that time a board had been already established in the chain trade in conformity with the rules drawn up by the Board of Trade in 1909. The chain board consisted of fifteen members—six representatives of the employers, six of employes and three outside representatives. The representatives of the employers and employes were elected at public meetings, held under the auspices of a representative of the Board of Trade, at Cradley Heath, and the outside representatives were selected by the Board of Trade.

In chainmaking the board had to deal with a very small and concentrated trade employing in all about 5,300 workers. Of this number, 1,500 were employed in factories, the remainder being outworkers. The factory workers had a fairly strong union and were, consequently, receiving rather high wages. The operation of the trade board was, therefore, confined almost exclusively to outworkers who were receiving, on the average, 30 per cent. less wages than the factory workers.[54]

The chain board fixed minimum rates of wages for hand-hammered chain—the women's branch of the trade —August, 1910; and for dollied and tommied chain—the men's branch—February, 1911. The minimum time rates for adult workers were 2½*d.* (5 cents) an hour where tools, fuel, and workshop were provided by the employer, and 3 1-3*d.* (6 2-3 cents) an hour where these were provided by the worker. The rates fixed for men varied from 5*d.* (10 cents) to 7*d.* (14 cents) an hour, according to the weight of the chain, where tools, shop and fuel were provided by the employer; and from 6 2-3*d.* (13 1-3 cents)

[54]Minimum Rates of Wages in the Chainmaking Industry, R. W. Tawney, p. 25.

to 9 1-3*d.* (18 2-3 cents), where these were provided by the employes.[55]

In chainmaking, however, the fixing of minimum time rates was a matter of relatively small importance as the majority of the workers in the trade are piece workers. The principal object which the board had in view in fixing the minimum time rates was to afford it a basis on which to fix minimum piece rates. An attempt was made to so arrange the piece rates as to enable the workers to earn the same hourly wages as time-rate workers. This was a rather intricate process, for it necessitated the fixing of different rates according to the different sizes of chain.

In 1912, the workers began to agitate for an increase of the minimum granted by the board determination. They demanded that the time rates for hand-hammered chain be increased from 2½ to 3*d.* (5 to 6 cents) an hour, and that a similar increase be granted in the rates for dollied and tommied chain. The employers' representatives on the board strongly opposed this demand of the workers. A compromise was suggested by the appointed members on the board, increasing the present rate to 2¾*d.* (5½ cents) instead of 3*d.* (6 cents) as demanded by the workers. When the compromise was proposed, the representatives of the employers withdrew from the meeting of the board, but in spite of their opposition it was finally adopted. On January 19, 1914, the board announced that it had varied the previous determination in the chain trade. The new determination since ratified by the Board of Trade has fixed the minimum rates for women workers at 2¾*d.* (5½ cents) an hour when the employer provides workshop, tools and fuel, and 3 2-3*d.* (7 1-3 cents) when he does not. The time rates fixed for men workers varies from 5*d.* (10 cents) to 7 7-10*d.* (15 2-5 cents) according to the diameter of the iron used, when

[55] Tawney, op. cit., pp. 39-40.

the employer provides workshop, tools and fuel, and 6 2-3*d.* (13 1-3 cents) to 10 4-15*d.* (20 8-15 cents) when he does not. The advance on the old piece rates granted by the new determination amounts to about 10 per cent.[56]

A comparison between the wages of men chainmakers in 1911 and 1913 shows that the increase brought about by the board determination was quite considerable. In 1911 the majority of men chainmakers were receiving between 13*s.* ($3.12) and 14*s.* ($3.36) a week, whereas, in 1913, the majority were receiving between 20*s.* ($4.86) and 22*s.* ($5.34) a week. (Tawney, op. cit., p. 92.) It is estimated that in 1910, 64 per cent. of the women workers earned less than 5*s.* ($1.20) a week, and only 14.3 per cent. over 7*s.* ($1.68); whereas in 1913 only 13.8 per cent. were receiving under 5*s.* ($1.20) a week, and 66 per cent., over 7*s.* ($1.68).

In the chain trade, the problem of learners was not such a large one as in the other trades. Nevertheless the method of dealing with it adopted by the chain board contains many useful suggestions for the wage boards in this country. The rules of the board prescribe that every learner must have a certificate signed by the secretary of the trade boards. Every employer, therefore, who wishes to take on an additional learner, must make a special application to the trade board in which he must set forth the opportunities of learning the trade which he intends to afford the learner, and also the proportion of learners to experienced workers in his shop. The chain board has also specified the time to be required in learning the trade as well as the wages to be paid to learners. Two years has been specified as the time necessary to learn the trade. The learner in hand-hammered chain must be paid 4*s.* (96 cents) a week during the first six months' period of employment; 5*s.* 6*d.* ($1.32) during the second six months' period; 80 per cent. of the minimum piece rates during the third six months' period; and 90

[56] Tawney, op. cit., p. 44. Labor Gazette, February, 1914, p. 48.

per cent. of the minimum piece rates during the fourth six months' period. A similar graduated scale of wages was drawn up for learners in dollied and tommied chain[57] This grading of the minimum rates of the workers according to their experience is a characteristic feature of the determinations of the English and Australian boards, the purpose being in all instances the same, namely, to avoid the danger of displacement through a sudden change in the wage scale.

The Trade Boards Act has made special provision for those who, by reason of age or infimity, are unable to earn the prescribed minimum. It has authorized the board to provide for them by allowing them to work on a piece-rate basis, or where this is impossible, by giving them special permits to work for less than the prescribed minimum. (Trade Boards Act, sec. 6, subsec. 3.) In the chain trade this difficulty has been solved by the special piece rates. The board has not, therefore, found it necessary to issue any special permits to chain workers allowing them to work for less than the minimum.

It is admitted by all who have looked into the matter, whether from the standpoint of employer, employe or social worker, that the increase of wages granted by the board has brought about remarkable changes in the lives of the chainworkers at Cradley Heath. "The women seem different beings from the inert and sunken people who attended meetings in pre-board times and the proprietors of the shops tell how their sales have expanded under the genial influence of the new conditions, imperfect though they may be admitted to be."[58] Increase of wages has meant better food, greater happiness and efficiency on the side of the workers. It seems to have raised them to a new plane where they are capable of using their united efforts to help themselves. So much is evident from the great progress of trade unionism among the

[57] Tawney, op. cit., pp. 51, 52.
[58] Sixth Report of the National Anti-Sweating League, 1912, p. 5.

chainworkers during the past thirty years. The chainmakers working in factories have always had fairly strong unions and have, therefore, been able to maintain fairly high rates of wages. The other two unions at Cradley, namely, the men outworkers' union and the local branch of the Women's Federation, had been very weak before the establishment of the board. In prosperous times, they were able to enforce a standard rate of pay, but in seasons of depression the workers again underbid one another, thereby enabling the employers to cut down wages. Since 1909, the men outworkers' union and the local branch of the Women's Federation have gained considerably. At present 60 per cent. of the women and 70 per cent. of the men eligible for trade union membership, belong to these two unions. In 1911, the men's union was able to obtain by collective bargaining an increase of 10 per cent. on the board determinations.[59]

Another highly centralized trade included under the provisions of the Trade Boards Act, was the lace trade at Nottingham. Here the board had to deal with 8,000 women workers who were as much victimized by the intrigues of middlewomen as the chainworkers at Cradley Heath. The board in this trade was established May 6, 1910. Unlike the chainworkers, those engaged in the lace trade were unable to elect their own representatives on the board. The Board of Trade, therefore, selected all the representative members—the representative members of employers and employes. The trade board fixed 2¾*d.* (5½ cents) an hour for all workers other than learners engaged in the lace trade and specified that this rate was to be increased to 3*d.* (6 cents) an hour inside of one year. The 2¾*d.* an hour rate became effective February, 1912.

In the lace trade, the board has met with a smaller degree of success than in any other trades in which boards

[59] Tawney, op. cit., 98.

have been established. This has been due undoubtedly to the scarcity and irregularity of work in the trade. When there is very little work to do and a large number of people to do it, the workers will be tempted to accept work at any price. For this reason it has been difficult to prevent the lace workers from evading the board determinations.[60] In spite of these difficulties, however, the present conditions in the lace trade are a considerable improvement on those that existed previous to the board determination. The most poorly paid workers have received an increase of 33 1-3 per cent. on their old rates.[61] The improvement in the piece rates is indicated by the direct transfer to the workers of price lists formerly paid to middlewomen. The profits of which the middlewomen were deprived have gone to increase the wages of the workers. Another hopeful sign of the improved conditions at Nottingham has been the advance of the trade union movement among the lace workers since the formation of the trade board. The local branch of the National Women's Federation had 2,000 members on its books in 1912. As at Cradley Heath, the union at Nottingham will be of the greatest assistance to the officers of the Board of Trade in detecting violations of the trade board determinations.[62]

As compared with chain and lace-making the paper-box trade which is the third trade scheduled under the Trade Boards Act is very large and extensive. It is estimated that about 25,000 persons are engaged in the manufacture of paper boxes in Great Britain, 9,000 of whom are women. April 27, 1910, a board was created in this trade consisting of thirty-five members—thirty-two representative members and three appointed members. The representatives of the employers were elected and the representatives of the employes selected by the Board of Trade from those presented by the employes. The great

[60] Sixth Report of the National Anti-Sweating League, 1912, p. 6.
[61] Fifth Report of the National Anti-Sweating League, p. 7.
[62] Sixth Annual Report of the National Anti-Sweating League, 1912, p. 7.

size of the paper box trade and its diffusion over the whole country made it impossible for one board to deal with it satisfactorily. The paper box board, therefore, delegated a number of its powers to district committees provided for by the Trade Boards Act. Nine of these district committees were created by the board in different parts of the country.

After a protracted struggle lasting over several months, the members of the paper box board finally agreed on a progressive rate of wages, beginning with 2¾*d.* (5½ cents) an hour and rising to 3¼*d.* (6½ cents) an hour in 1913, but the agreement was shortly afterwards repudiated by the employers on the grounds that the board had no power to fix a progressive rate of wages. Later a new rate of 3*d.* (6 cents) an hour, yielding 13*s.* ($3.12) a week, was fixed by the board. As the employers' representatives stated that about 10,000 workers were receiving less than 10*s.* ($2.40) a week previous to the board determinations, the advance for the poorly paid workers will be quite considerable.[63]

The men in the paper box trade were organized previously to the formation of the board, but their union was not sufficiently strong to maintain any standard rate of wages. When the board began its sessions, the representatives of the men demanded 7*d.* (14 cents) an hour. The representatives of the employers refused to pay them more than 5*d.* (10 cents) an hour. After some time, both sides compromised on 6*d.* (12 cents) an hour or 26*s.* ($6.30) a week. This rate gave a considerable increase to the poorly paid men workers in the trade. Prior to the board determination, 25 per cent. of the adult male workers in the paper box trade were receiving less than 25*s.* ($3.06) a week.[64]

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[63] Fifth Annual Report of the National Anti-Sweating League, 1911, p .8.

[64] Seventh Annual Report of the National Anti-Sweating League, p. 10.

One of the best services of the trade boards has been to free the workers from the obligation of paying for the sundries necessary in their trades. The paper box workers have been freed from the obligation of paying for paste and glue, and the tailors, for cotton and needles. This is no small matter as the home worker in the paper box trade, for instance, had to spend as much as 1*s.* 6*d.* (36 cents) a week for glue in busy times.[65]

The tailoring trade is the largest and most complicated of the four scheduled trades. This trade employs in all about 200,000 workers and is spread over an area too great to be covered by any single board. It is carried on in large cities as well as in remote country hamlets. It employs workers in large factories at fairly reasonable wages and under fairly good conditions; and in squalid homes in the London slums at miserably low wages. By reason of the large size of the tailoring trade and the wide extent of territory which it covered, the trade board thought it wise to deal only with one section of it at first. It, therefore, limited the sphere of the trade board to the making of men's garments.[66]

The trade board in the tailoring trade, which was created January 25, 1910, consisted of twenty-nine members—thirteen representatives of the employers selected by the Board of Trade from the names presented by employers, and thirteen representatives of the employes also selected by the Board of Trade from the names presented by the employes; and three appointed members. The first thing done by the tailoring board was to set up district committees, seven in number, in the various centers in which the tailoring trade was carried on. These committees were to advise the trade board on local conditions and assist it in determining minimum rates of wages.[67] The tailoring board, like the paper box board,

[65] Fifth Annual Report of the National Anti-Sweating League, p. 8.
[66] Fifth Report of the National Anti-Sweating League, 1911, p. 8.
[67] Memoranda in reference to the working of the Trade Boards Act, 1913, p. 3.

has fixed a very low flat rate of wages applicable in all parts of the country in home work as well as in factory work. The rate fixed for adult female workers was 3¼*d.* (6½ cents) an hour, yielding 13*s.* 10½*d.* ($3.33) a week (51 hours). The rate at first proposed by the board was 3½*d.* (7 cents) an hour, which would have yielded 15*s.* ($3.60) a week, this being the least sum considered necessary to supply the worker with the minimum requirements of a decent life.[68] The board, however, was compelled to modify its proposal by reason of the organized opposition of the Wholesale Clothiers Federation and to fix the minimum at 3¼*d.* (6½ cents) an hour. The tailoring board also fixed minimum rates for learners in the trade. Female learners beginning at 14 and under 15 years of age are to be paid a rate varying from 3*s.* (72 cents) per week during the first six months' period of employment, to 12*s.* 6*d.* ($3.06) during the eighth six months' period. Different rates are fixed for learners beginning at 15 and under 16, at 16 and under 21, and 21 and over.

How this admittedly low wage compares with the wages of women workers previously to the board determination, it is very difficult to say. We have no statistics in regard to the wages of women workers previously to the board determination. From what we know of its influence on the wages of factory workers, we may, however, conclude that it made a considerable advance in the wages of home workers. According to the wages and hours inquiry of the Board of Trade in 1906, 10 per cent. of the adult female workers in factories were receiving less than 8*s.* ($1.92) a week, and 70 per cent. under 15*s.* ($3.60) a week.[69] From the fact that the determination made such a noticeable increase in the wages of about half of the most poorly paid factory workers, we may conclude that it had a similar effect on the wages of home workers. The

[68] Sixth Report of the National Anti-Sweating League, 1912, p. 8.
[69] Sixth Annual Report of the National Anti-Sweating League, p. 7.

tailoring board has fixed the minimum wage for adult male workers in the tailoring trade at 6*d.* an hour, which is equal to 26*s.* a week. This minimum, while admittedly very low, must have made a considerable increase in the wages of a large number of tailors. The figures given by the Board of Trade for 1906 show that 25 per cent. of the adult males in the tailoring trade earned less than 25*s.* ($6.00) a week. Even admitting a change for the better between that year and 1911, still it is probably true that a fairly large percentage of the tailors were receiving under 25*s.* ($6.00) a week in the latter year, when the board fixed the minimum at 26*s.* ($6.24).

In addition to boards established in the four scheduled trades in England, two boards have been established in Ireland—one in the paper-box-making trade and one in the tailoring trade. Both boards have already fixed minimum time rates of wages for workers engaged in these two trades. The rates fixed for workers in the paper-box trade are 6*d.* (12 cents) an hour for adult male workers, other than learners, and 2¾*d.* (5½ cents) an hour for adult female workers, other than learners. These rates, although considerably lower than those fixed for the same trades in England, still make a noticeable advance on the wages previously paid. On account of the instability of the industries in Ireland it was necessary for the board to proceed very slowly and cautiously and to begin with fixing a rather low minimum rate of wages.[70]

The penalties which the law attaches to the violation of the trade board determinations are rather severe. Any employer failing to pay his workers the minimum fixed by the board, is liable to a fine of not more than £20 ($97.20 for each offense, and not less than £5 ($24.30) for each day on which the offense is committed after conviction has taken place. Up to January 1, 1913, only four prosecutions had taken place for the violation of the board determinations. The first prosecution was that of

[70] Seventh Annual Report of the National Anti-Sweating League, p. 8.

an employer in the chain trade for failure to pay the minimum rate to three workers. The court imposed fines in this case, amounting to £15 ($72.90), with £9 9*s*. ($45.90) costs. The employer was also ordered to pay the workers arrears of wages amounting to £7 15*s*. 10*d*. ($37.75). The second prosecution was that of a Nottingham middlewoman, who was fined £1 ($4.86) with £1 1*s*. ($5.10) as costs, for disregarding the determination of the lace board. The third prosecution was that of a box manufacturer in East London who was fined £3 3*s*. ($15.30) with 5*s*. ($1.20) costs and ordered to pay the sum of 7*s*. ($4.08) to the worker as arrears of wages. The fourth prosecution was that of a man and his wife who were carrying on the business of subcontractors in the lace trade, for interfering with the work of an investigating officer. In this case the magistrates did not think it wise to impose a heavy fine on account of the poverty of the defendants. A small fine was, therefore, imposed on the man, and his wife was dismissed with a caution.[71]

At first Parliament applied minimum wage legislation to four trades in which there was a crying need of reform of some kind. The results of the legislation in these four trades were carefully noted. After seeing these results, Parliament concluded that the experiment might be safely extended to other trades. A provisional order was, therefore, introduced into Parliament May 1, 1913, which met with the unanimous approval of both houses, extending the application of the Trade Boards Act to four additional trades.[72] These four trades were

[71]Memoranda in reference to the Working of the Trade Boards Act, May 27, 1913, p. 7.

[72]It was the intention of the Board of Trade that the application of the Trade Boards Act should be extended by provisional order to five additional trades in 1913. In regard to the extension of the provisional order to four of these trades, namely sugar confectionery and food preserving, shirtmaking, hollowware making and linen embroidery, there was no opposition, but in regard to the fifth trade, namely, laundering there was considerable opposition. The National Association of Laundry Employers petitioned Parliament against the extension of the act to their industry. Now the Trade Boards Act provides that when

sugar confectionery and food preserving, shirtmaking, hollowware making and linen embroidery. The inclusion of these four trades almost doubled the number of workers affected by the Trade Boards Act. It is estimated that about 200,000 workers are affected by the determinations of the boards already in existence and that 150,000 additional workers will be affected by the boards to be established under the new provisional order.[73]

The fact that the English government after three years' experience of the working of minimum wage legislation, determined to extend its operation over a wider field is a very strong proof of the feasibility of this kind of legislation. When minimum wage legislation was first proposed in England in 1907-08, there was a tendency to exaggerate its defects and difficulties by those who studied it from the viewpoint of theoretical political economy, and also from the viewpoint of the practical experience of the Australasian colonies. The economists were writing about the very serious economic objections to minimum wage legislation. Students of Australasian legislation thought that the Australasian experience was

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such a petition is presented to Parliament it may refer the matter to a select committee; or to a joint committee of the two houses. In this case, Parliament referred the matter to a select committee which disapproved of the application of the proposed order to laundering. The committee concluded that in as much as the order referred to calendering and machine-ironing steam laundries to the exclusion of laundries employing other kinds of power, it was discrimatory. The Board of Trade, thereupon complied with the suggestion of the select committee, by eliminating all specific reference to steam laundries. In 1914, therefore, it asked Parliament to extend the application of the act to calendering and machine-ironing in all laundries, no matter what kind of power they used. The matter was again referred to a select committee which failed to approve of the order on the grounds that the evidence presented to them in its favor was inconclusive. The committee, however, suggested that the Board of Trade should invite the cooperation of trade organization of employers and employes with a view to obtaining the fullest information in regard to wages and other conditions of labor in the whole laundry trade. They further suggested that any order relating to the laundry trade that may hereafter be applied, should, if possible, be of somewhat wider application. Special Report of the Select Committee on the Trade Boards Act Provisional Order Bill.

[73]Seventh annual report of National Anti-Sweating League, 1913, p. 2. Memoranda in reference to the working of the Trade Boards Act, ordered by House of Commons, May 27, 1913, p. 7.

not conclusive and that the Australasian experiment did not establish the general feasibility of minimum wage legislation. With the experience of three or four years of the working of the minimum wage legislation, it has been discovered that the difficulties conjured up in 1907-08 were either unreal or exaggerated.

CHAPTER VII

THE COAL MINES (MINIMUM WAGE) ACT

The Coal Mines (Minimum Wage) Act, 1912, was due to the great strike that took place in the British coal mines in March, 1912. This strike which involved about 710,000 miners practically brought to a standstill a large part of the industries of the nation. Even before the strike was declared and especially before it had been under way for many days, the government realized that it was fraught with very grave consequences. The ministry, therefore, strained every nerve to avert the strike and after it had been declared, it used every means in its power to bring the parties to an agreement. It was only after it had failed to bring them to an agreement and to induce them to resort to conciliatory measures that it was forced to have recourse to legislation. The circumstances which led to the Coal Mines Act and the purpose of the act were, therefore, altogether different from the circumstances and the purpose of the Trade Boards Act. The Coal Mines Act was passed to put an end to a great industrial conflict; it was a means devised by English society to protect itself against industrial conflicts. The Trade Boards Act on the other hand was passed to protect the weak against the strong. It was a means devised by society to give to the weaker members of the laboring group what they had been unable to attain by their own efforts.

The great coal mines strike was really the culmination of a national movement for a minimum wage for all men and boys working underground in the mines of Great Britain. This demand for a national minimum wage was not due to any pressing necessity for a general increase of the wages of miners throughout the United Kingdom. Before the fall of 1911, the miners as a whole were satisfied with their wages and they were satisfied with collect-

ive bargaining as a means of obtaining an increase when-even an increase was necessary. The difficulties which led to the demand for a national minimum wage and to the great national strike as a means of obtaining it, may be traced to a dispute in the Cambrian mines in South Wales in 1911 for which the operators and miners had not been able to find a solution.[74] At that time the Cambrian Company began to work on a new seam, and gave notice to the workers that they wished to have a tonnage price fixed for the working of this seam. The representatives of the employers and employes not being able to agree on a scale of piece rates, the matter was referred to a conciliation board, which also failed to arrive at any decision. After conciliation had failed, a strike was called of the men working on the new seam and with that all the miners in the Cambrian collieries were locked out.[75]

The difficulty which led to the Cambrian dispute was only one of the many difficulties arising from time to time in regard to the question of abnormal places in the coal mines of Great Britain. When the miner struck abnormal places, that is, when he met a hard vein or water or had to devote too much time to fixing the roof of the mine, there was really no proportion between the amount of work done and the wages received. In such instances the miner might work very hard and receive a very low wage. The usual method of solving these difficulties created by abnormal places was through an allowance system, the amount of the allowance being agreed upon by a local committee of employers and employes.[76] This method, however, did not finally solve the difficulty, as the employers and employes could not always agree upon what constituted an abnormal place or the amount of work to be required of the miner in such a place.

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[74] Evans, Coal Strike in South Wales, 1910-11, pp. 214-215.
[75] London Quarterly Review, 1912, vol. V, p. 554.
[76] Evans, op. cit., p. 215.

The more conservative miners in the Cambrian Collieries and throughout South Wales would have been able to come to an agreement with their employers on the question of abnormal places. Before 1910 they had been able to settle these questions by a system of conciliation, but, by this time, the power of the old conservatives among the miners had waned considerably. A strong radical wing had risen to power and this radical wing dominated the policies of South Wales in 1910. The members of this wing were strongly socialistic in aim and profession. For the old methods of collective bargaining they cared little. What they desired and strove for was a legal minimum wage for all the workers underground, independently of the amount of work done, or the place in which it was done."[77]

The Cambrian strike was the first movement of the South Wales miners towards the enforcement of their demand for a legal minimum wage. The strike did not attain its immediate purpose but nevertheless it contributed very materially towards popularizing the demand of the Welsh miners. Henceforth the socialist party of South Wales bent all its efforts towards winning the support of the British Federation of Miners. It was persuaded that so long as the demand for a minimum wage remained a purely local one, it was doomed to failure, but that once it assumed national proportions its success was assured. By October, 1911, the Radicals of South Wales succeeded in winning the British Federation of Miners over to its side. At that time a national conference was held at Southport at which the following resolution in favor of a district minimum wage, without any reference to the working place being abnormal, was passed: "that the Federation take immediate steps to secure an individual district minimum wage for all men and boys working in the mines without any reference to the working places being abnormal."[78]

[77] Evans Coal Strike, South Wales, 1910-11, p. 2.
[78] Board of Trade Labor Gazette, March, 1912, p. 82.

The demand for a legal minimum wage for miners had by this time assumed national proportions. But before national action was taken on the matter the employers in each district were to be given a chance of complying with the demands of their workers, and for this purpose district conferences were to be held all over the country.[79] On November 14, the delegates from each district were to make a report to the Federation on the results of these conferences and on that date the question of national action by all the miners in Great Britain for a legal minimum wage in each district was to be discussed. The national conference, however, held on that date, adjourned without coming to any conclusion, as negotiations were still in progress in many districts; and it was accordingly decided to hold another national conference on December 20, at which the question would be brought up again. As the reports from the district committees were mostly unfavorable, it was resolved, at the December conference to submit the following question to a vote of all the miners of Great Britain, "Are you in favor of giving notice to establish the principle of a minimum wage for every man working underground in the mines of Great Britain?" The vote was taken on January 18, and the result was declared at a national conference held at Birmingham shortly afterwards. The result showed a large majority (445,801 to 115,721) in favor of giving notice on February 2. A further meeting of the Federation was held in London at which the claims of each district were formulated which were to form the basis of future negotiations. On February 7, a national conference of the owners and miners was held in London, but it failed to arrive at any decision. The operators were prepared to consider the question of abnormal places if the miners withdrew their demand for a district minimum wage, but this the miners were unwilling to do. February 20, Premier Asquith called a conference of the operators and miners at which

[79] Journal des Economistes, March, 1912.

the following proposals for the settlement of the dispute were submitted to both parties:

(1) His Majesty's government are satisfied after careful consideration that there are cases in which underground miners cannot earn a reasonable minimum wage for cause over which they have no control.

(2) They are further satisfied that the power to earn such a wage should be secured by arrangements suitable to the circumstances of each district, adequate safeguards being provided to protect employers against abuse.

(3) His Majesty's government are prepared to confer with the parties as to the best methods of giving practical effect to these conclusions, by means of district conferences between the parties, a representative appointed by the government being present; in the event of any of the conferences failing to arrive at a complete settlement within a reasonable time, the representatives appointed by His Majesty's government to decide jointly any outstanding points for the purpose of giving effect to the above principles.[80]

These proposals were acceptable to the great majority of the mine-owners of England and North Wales, but the owners of Scotland and South Wales were unwilling to accept them on the ground that they constituted a repudiation of already existing agreements. The miners also rejected them on the grounds that they could not submit to arbitration the demands formulated by the different districts on February 2 in regard to an individual minimum wage. On March 1, the notice to strike became effective and on that day about 1,000,000 miners left their work. On March 8, the government called another conference of the mine owners which was opened March 12, with the Prime Minister in the chair, and came to a close March 15, without bringing the parties to an agreement in regard to the matter in dispute.

[80] Board of Trade Labor Gazette, March, 1912, p. 83.

The government had now used every means in its power to bring the parties to an agreement but without any satisfactory results. Conciliation had failed and there was no alternative except to have the government step in and decide the questions in dispute. Mr. Asquith, therefore, decided to ask Parliament for a legislative declaration on the matter and on March 19, the Coal Mines Minimum Wage Act was introduced into the House of Commons. The purpose of this act was to provide a reasonable minimum wage for miners and at the same time to provide adequate safeguards for the protection of the employer.

The machinery of this law was very similar in many respects to the machinery usually employed in collective bargaining. The minimum wage for each district was to be determined by a joint district board; and this same district board was to lay down the rules with which the workers had to comply in order to earn the minimum wage.[81] The board had to determine when and how the worker was to forfeit his right to the minimum wage. These rules laid down by the district board were intended to guarantee to the employer a certain rate of efficiency and regularity among his workers. They were to safeguard him against paying inefficient and irregular workers more than the value of their labor. The district boards are equally representative of both sides. Employers and employes appoint their representatives on them in equal proportions. The chairman of the board is chosen by the representatives of employers and employes or on their failure, by the Board of Trade.[82] If within two weeks after the passing of the Act, the employers and employes have not succeeded in establishing a district board, the Board of Trade may establish such a board itself.[83] When a joint district board has been

[81] Coal Mines (Minimum Wage) Act, 1912, sec. 1, subsec. 1.
[82] Act, sec. 2, subsec. 2.
[83] Act, sec. 4, subsec. 1.

established in any district it proceeds to fix minimum rates of wages and to draw up district rules. Herein it follows the ordinary methods of collective bargaining. Employers and employes set forth their demands. If they come to an agreement then the system of legal regulation under which this agreement is carried out differs little from a system of collective bargaining. It is only after the parties have failed to come to an agreement that the legal machinery provided by the Coal Mines Act loses its similarity to collective bargaining and becomes more like a system of compulsory arbitration. In collective bargaining, industrial anarchy is the result of disagreement, but under a system of legal regulation like that provided by the Coal Mines Act, society steps in and imposes its will upon the parties. Under the Coal Mines Act, this is done through the outside independent chairman. The act specifies that if the board within three weeks after its establishment, fails to determine minimum rates of wages or to draw up district rules, the chairman shall settle the rates and rules.[84]

In the House of Commons, the Coal Mines Act was passed on second reading by 213 to 38 votes and it went through the Lords without a dissenting voice.[85] The labor members of the House of Commons did everything in their power to prevent the passing of the law in its present form. They tried to have a clause inserted in the law establishing a flat minimum wage of a specified amount throughout the whole country, but the government was opposed to any such flat minimum, for they believed that it would impose an undue hardship on certain classes of operators in mines of an inferior quality. The government believed that it was better all round for each district to determine its own minimum wage rates adapted to its own peculiar circumstances and needs. After the passing of the law, the employers declared

[84] Act, sec. 4, subsec. 2.
[85] Labor Gazette, April, 1912, 126.

themselves prepared to cooperate with the government in its administration. The workers, however, still maintained their attitude of opposition.[86] The majority of them were still opposed to resuming work; but the leaders of the miners concluded that nothing was to be gained by opposing the government, and as a means of overcoming the opposition of the radical element, they proposed that a two-thirds vote should be necessary to continue the strike as a two-thirds vote had been necessary to inaugurate it. As the radicals were not able to obtain the required two-thirds' majority, it was decided that the miners should return to work and try to make the best out of the law as it had been passed.

The objections of the mine owners against minimum wage legislation were mainly two. In the first place they claimed that on account of the difference between the different districts, it would be impossible to apply the same minimum throughout. Secondly they claimed that a universal minimum wage specified by Parliament would leave them without any means of defence against careless and inefficient workers. These objections were taken into account in the framing of the law and also in the district rules. Parliament abstained from determining any specific standard of payment applicable in all districts, and by so doing excluded from the law a feature that would have proved very objectionable to employers. Parliament also left the employers a weapon of defence against careless and inefficient workers, in as much as it authorized the district boards to make specific regulations in regard to the degree of efficiency and regularity of work necessary to qualify for the minimum wage. All the district rules which have so far been drawn up, exclude persons above a certain age from the right to receive the minimum wage. In North Wales the age limit is 60, in Monmouth, 63, in Derbyshire, South Derbyshire, Notting-

[86] Labor Gazette, April, 1912, p. 130.

hamshire and Scotland, 65. Cleveland and Northumberland distinguish between contract workers for whom the age limit is 57, and the ordinary day laborers for whom the age limit is 63. Insufficient output also excludes the workers from the right to receive a minimum wage. In all the districts a person must have reached a certain standard of output for a prescribed period of time in order to qualify for the minimum wage. In South Staffordshire the period for which a person must have reached the required standard of output is five weeks, in Bristol two weeks, and in North Wales three months. From this rule are excepted abnormal places where the work is so difficult as to make the required standard of output impossible of attainment. In order to insure a certain regularity among the workers, the district rules specify that if the workers miss a certain number of shifts they shall forfeit their right to a minimum wage. As a further guarantee of efficiency the district rules require the workers to have a certain amount of experience in order to qualify for the minimum wage. The time usually considered necessary to acquire this experience is about three months.

When a dispute arises about the amount of wages to be paid to a worker or the violation of district rules, the matter is taken up in the first instance between the worker and the competent mine official. If they fail to come to an agreement it is referred to an agent of the miners' association and the management of the mine. If these also should fail to come to an agreement, the case is referred to a committee appointed by the district board with an outside non-partisan chairman who may cast the deciding vote.[87]

The increase of wages granted to the miners by the district boards has not been very great. The amount of the increase, in 1913, varied between 10 and 14 per cent.

[87] Labor Gazette, May, 1912, p. 197.

The general level of the miners' wages in 1913 was, however, higher than in any of the past twenty-years, with the single exception of 1900. As to how far the improved conditions are due to the district boards, it is impossible to say. It may be that the miners could have obtained the same, or perhaps a greater increase by the methods of conciliation formerly in vogue. The district boards secure for the workers a certain minimum wage at all times, but the minimum must be rather low as the boards are obliged to take into account the exigencies of the most poorly managed mines. The minimum wage must not be so high as to impose excessive burdens on these poorly managed mines. The rate fixed for any district must, therefore, depend, in a large measure, on the exigencies of the most poorly managed mines.[88] This is one of the many reasons why the miners have been dissatisfied with the Minimum Wage Act of 1912.

[88] London Quarterly Review, 1912, vol. V, p. 573.

CHAPTER VIII.

THE MINIMUM WAGE MOVEMENT IN AMERICA.

The movement for minimum wage legislation in this country got its first impetus from the Consumers League, organized in New York City about twenty-five years ago. This organization with its national and local bodies at first tried to secure for the workers higher wages, shorter hours and improved working conditions by educating the consuming public. The Consumers League tried to arouse public interest in the condition of the wage-earners by bringing before the public the conditions under which they worked, as well as the wages they received. For the city of New York, they drew up a white list containing the names of employers in different trades who enforced standards of wages, hours, and working conditions. After fifteen years of educational work the league concluded that something else had to be done in order to obtain the object which they had set before them. The formation of public opinion was a necessary step towards securing a minimum wage for women workers, but it was felt that in order to be really effective public opinion had to find expression in law, for, no matter what the public feeling and sentiment on the question might be, employers would not, as a rule, pay a living wage to all their workers unless compelled thereto by law. In 1908, therefore, the National Consumers League adopted minimum wage legislation as a part of their 10-year program. They resolved to devote the next ten years to securing the passage of a minimum wage law in every State in the Union.

In their campaign for minimum wage legislation since 1908, the Consumers League had to overcome the same difficulties as the advocates of workmen's compensation and the hours legislation. In the first place they had to overcome the organized opposition of employers;

secondly, they had to overcome the strong individualistic philosophy of the American people; thirdly, they had to overcome the constitutional difficulty. There was and still is a danger lest minimum wage legislation may be held to be an unwarranted interference with the liberty and property rights of the individual and an interference, therefore, which is not justified under the police power of the State.

Notwithstanding the various obstacles in its path, the minimum wage movement has made considerable headway in this country during the past three years. In 1912 the State legislature of Massachusetts passed a minimum wage law. In 1913, minimum wage laws were passed by the legislatures of California, Colorado, Minnesota, Nebraska, Oregon, Utah, Washington and Wisconsin. In addition to the States enacting this form of legislation in 1913, a number of others gave the matter serious consideration. Among these were, Michigan, Missouri, Kansas, Pennsylvania, New York, Maryland and Connecticut. The legislatures of these States concluded that the time was not yet ripe for the enactment of minimum wage legislation. In New York, Michigan, Missouri, Kansas and Connecticut, however, it was felt that this question was one of which the State should take cognizance. Accordingly, the New York legislature authorized the Factory Investigating Commission, which had been created in that State in 1911, "to inquire into the rates of wages paid in the different industries of the State and to report on the advisability of establishing minimum rates of wages." The legislatures of Michigan and Missouri, also, appointed special commissions to investigate the wages of women workers in the various industries of these two States. The Kansas and Connecticut legislatures authorized their labor commissioners to make similar investigations.

The minimum wage laws, so far passed or proposed in the various States, have been based on three distinct

principles. In the first place, Massachusetts conceived the idea that the State might determine a minimum wage through an appointed commission, but that having determined this minimum wage it might safely leave its enforcement to public opinion. This idea was also incorporated in the Nebraska law passed in 1913. The second principle was that embodied in the Utah law passed in 1913 and also in the defeated Kansas bill of the same year. According to the Utah principle, the State forbids the employment of women and minors at less than a specified minimum wage, the minimum being the same throughout the whole State and in all employments. The third principle was that embodied in the minimum wage laws of California, Colorado, Minnesota, Oregon, Washington and Wisconsin. The legislatures of these States did not believe that public opinion was a sufficient sanction for the enforcement of a minimum wage law. Secondly, they concluded that on account of the different conditions prevailing in different industries and in different parts of the State, it would not be advisable to determine by law any specific minimum wage applicable in all industries employing women and minors throughout the State. They concluded that it would be more in harmony with the approved experience and established policies of other countries to set up a machinery which would first examine the wages and needs of employes in the different industries and afterwards fix a minimum below which it would be unlawful for anyone to employ women or minors.

Unlike the Australasian colonies and England, minimum wage legislation in this country has been confined to securing of a living wage for women and minors.[89] It is generally felt that minimum wage legislation for men would be held unconstitutional by American courts at the present time, but this, after all, is not the real difficulty in

[89]It may be noted at this point that a constitutional amendment authorizing the legislature to pass minimum wage legislation for men and women alike was submitted to the voters of Ohio, in 1912, and ratified by them.

the way of its adoption. If the American people realized the need of minimum wage legislation for men, they could soon bring the courts to their way of thinking, or, if not, they could pass a constitutional amendment. Back of the constitutional difficulty, then, there is a more fundamental reason for restricting minimum wage legislation to women and minors. In the case of women and minors, it is a question of securing a personal wage, while in the case of men it is a question of securing a family wage. Now the securing of a family wage is a far more difficult and far-reaching undertaking than the securing of a personal wage, and for two reasons. In the first place, the minimum must be fixed at a higher point to secure a family wage than to secure a personal wage with the result that it will cause more industrial disturbances. In the second place, the securing of a family wage means that the State practically takes over complete control of the labor contract for if it regulates the wages of the unskilled worker who has been unable to obtain a fair wage by collective bargaining, why should it not step in and regulate wages where collective bargaining breaks down.

No organization in America is more firmly opposed to the regulation of men's wages by law than the American Federation of Labor. "If it were proposed in this country to vest authority in a tribunal to fix by law the wages of men, organized labor would protest by every means in its power," declared the executive council of the American Federation of Labor in 1913. "Through organization, the wages of men can and will be maintained at a higher rate than they would if fixed by legal enactment." "This opposition of organized labor is in all probability sufficient to make the regulation of men's wages by law at the present time a political impossibility."[90]

Whatever, then may be said about the legal regulation of the wages of men as an economic, social and ethical

[90] Report of the proceedings of the Thirty-Third Annual Convention of the American Federation of Labor, p. 63.

policy, it is not politically feasible at the present time. The legal regulation of women's wages is, however, coming more and more within the region of practical politics. It is generally felt that the need for wage legislation is far greater in the case of women than of men. On the one hand women's position as a child bearer makes her health and welfare a matter of public concern. She is destined to bring forth children who will be the future citizens of the country and on whose health and efficiency the welfare and prosperity of the country will depend. If the women of the country are not properly nourished, they cannot bring forth strong and healthy children, and without strong and healthy children, we cannot expect the race to maintain its strength and vigor. On the other hand, women on account of their weakness are an easy prey to unscrupulous and over-exacting employers. They have not at all the same powers of organization as men, for the reason that the majority of them intend to remain in industry only for a short time. "That the girls remain unorganized in spite of the marked tendency toward organization in other lines," says the United States Bureau of Labor Statistics, "is entirely conceivable in view of the fact that approximately 50 per cent. of them are twenty-one years of age and under. Young women of that age do not look upon employment as a life work. Their stakes in the results of organization are not large enough to attract them and as they are the girls in demand, the other 50 per cent. of the women employes are without adequate leverage to effect organization with convincing bargaining power."[91] The women workers look forward to marriage as a relief from the drudgery of the department store or factory and for this reason trade unionism does not make such an appeal to them as to men; and since there is very little hope of organizing women workers on

[91] Report of U. S. Bureau of Labor Statistics on Women and Child Wage-earners, vol. V, p. 26.

any extensive scale at the present time, the only means of securing a reasonable wage for them is by legislation.

The two facts which gave the greatest impetus to minimum wage legislation in this country were the passing of the English Trade Boards Act in 1909, and the exhaustive report of the Federal Bureau of Labor Statistics on "Women and Child Wage-earners in the United States," in 1910. The people in this country were not much influenced by the experience of Australia in minimum wage legislation. There were so many differences, it was claimed, between Australia and America that an experiment which might have worked out very successfully in the former country might prove a total failure in the latter. The Australians were normally inclined to depend more on their government than the Americans and their industrial system was not at all so complex as the industrial system of this country. With England, however, the case was different. Here was a country with a people very like the Americans in aims and ideals and with an industrial organization just as complex as that of America. If then the wage board system had been a success in England, why could it not be a success in this country. This argument has made and still makes a powerful appeal to our courts and legislatures.

If the wages board system of Victoria had been a success in England, with an industrial organization similar to our own, the only question which the American legislature required to have answered before adopting it, and the American judge before upholding its constitutionality, was whether there was a real need for it in this country. This question was answered by the United States Bureau of Labor Statistics in its "Report on the Wages and Living Conditions of Women and Child Wage-earners in the United States." The bureau found that of the women and girls employed in the department stores of our large cities, 34.6 per cent. of those living at home with their families earned less than $6.00 a week and 68.7 less than

$8.00. Of those adrift, *i.e.*, living in boarding and lodging houses as well as those whose so-called homes have become an impending wreckage, it found that 19.3 per cent. earned less than $6.00 a week, and 58.6 per cent. less than $8.00. The wages of girls employed in factories were found to be even still lower than those employed in stores. Thus, out of 10,149 females employed in the manufacture of men's clothing in representative factories in Chicago, Rochester, New York, Philadelphia and Baltimore, it was found that 1098 or 20 per cent. earned less than $4.00 a week, 1,492 or 34 per cent. earned less than $5.00 a week, and 1,517 or 59 per cent. less than $6.00 a week.[92] A similar situation in regard to low wages has since been brought to light by the investigations of the Massachusetts Minimum Wage Commission, the Washington Industrial Welfare Commission, the Oregon Consumers League and the New York Factory Investigating Commission. The Massachusetts Minimum Wage Commission found 65 per cent. of the women workers in the candy industry of the State earning less than $6.00 a week, and 29 per cent. of those in retail stores, 4,051 of those employed in laundries and 37 per cent. of those employed in factories, earning less than the same amount. The Washington Industrial Welfare Commission found that 55.6 per cent. of the mercantile store employes, 71.2 per cent. of the factory employes, and 72.4 per cent. of the laundry employes earned less than $10.00 a week. The Oregon Consumers League found that 59.6 per cent. of the female employes investigated by it, received less than $10.00 a week. The New York Factory Investigating Commission found that half of the department store girls in New York earned less than $7.50 a week, and that one-half of those employed in the confectionery industry of the State earned less than $6.50, while about one-sixth of

[92] Report on Women and Child Wage-earners, vol. II, p. 130.

the females employed in all the industries investigated by the commission, received less than $5.00 a week."[93]

When we compare the foregoing facts with the various estimates of the cost of living of a working woman, we are forced to conclude that a large percentage of our women workers are receiving less than the minimum amount necessary to maintain them in health and decency. Practically all students of the question agree that the woman wage-earner cannot supply herself with absolute necessities on less than $7.00 a week. It would take this amount to supply the girl with room and broad, clothing and carfare. Nothing would be left to tide her over periods of sickness. There would be no allowance for church, insurance, laundry, amusements, education or medical attention. Allowances for these items which are generally looked upon as a necessary part of the cost of living would raise the amount necessary to maintain the working woman in health and decency to $8.50 a week. The estimates of a living wage for a woman worker, living away from home, vary between $8.53 a week, which was the estimate of the Senate Wage Commission of Missouri, and $11.00 a week, which was the estimate of the Wage Conference appointed by the Washington Industrial Welfare Commission for Hotels and Restaurants. The fact that a large percentage of women wage-earners receive less than a living wage, even according to the lowest estimate, must be the cause of many hardships and deprivations to them.

[93] Survey, vol. XXXIII, No. 19, p. 505.

CHAPTER IX.

MINIMUM WAGE LEGISLATION IN MASSACHUSETTS.

Massachusetts was the first American State in which there was a well-organized movement for minimum wage legislation. In 1911, a petition was presented to the legislature of that State asking for an investigation with regard to the desirability of passing a minimum wage law in that state. In response to this petition, the legislature passed a resolution authorizing the governor to appoint a commission "to study the matter of wages of women and minors and to report on the advisability of establishing a board or boards to which shall be referred inquiries as to the need and feasibility of fixing minimum rates of wages for women and minors in any industry."[94] After an extensive investigation of the confectionery industry, retail stores and laundries, the commission made its report in 1912. It found that of 1,218 women, eighteen years and over, employed in the candy industry, whose ages and earnings were ascertained, 41 per cent. averaged less than $5.00 a week, and 65 per cent. less than $6.00 a week. Of the 2,861 women workers in retail stores whose ages and earnings were ascertained, it found that 10 per cent. averaged less than $5.00 a week, and 29.5 per cent. less than $6.00 a week. Of the 1,219 laundry workers, it found that 21 per cent. averaged less than $5.00 a week, 45.11 per cent. less than $6.00 and 64.33 per cent. less than $7.00.[95] The commission found that the lowest rates of wages were not at all uniformly distributed. In some establishments the percentage of workers receiving extremely low wages was very large, while in others it was very small.

[94] First Annual Report of the Minimum Wage Commission of Mass., p. 6.

[95] Report of the Commission on Minimum Wage Boards, p. 10.

In the candy industry, for instance, with its 40 per cent. of adult women workers receiving less than $5.00 a week, a comparison of the wage rates in eleven different establishments showed that the lowest wages were confined to six factories in one of which 53.3 per cent. of the employes received less than $5.00 a week. In the other five factories not a single employe of eighteen years or over was paid so low a wage. Similar differences in wages were discovered in the different stores and laundries. Thus, for instance, in two out of six department stores in Boston, 2.2 and 1.4 per cent. respectively of the employes received under $5.00 a week, while in two others the percentage of those receiving under $5.00 a week amounted as high as 16.7 and 18.2 per cent. respectively. In four out of the twelve laundries studied, the percentage of workers receiving under $4.00 a week ranged from about 1.5 to 2.5 per cent. while in three others it ranged from about 16 to 29 per cent. of all the workers.[96]

From these differences in the wages of the different establishments, the commission concluded that different employers pay different rates of wages for the same service. It is very doubtful, indeed, if one laundry and especially one mercantile store in a locality can pay a lower rate of wages than a competitor and yet maintain a very high degree of efficiency among its workers. Under normal circumstances, the more efficient help will gravitate towards the factories and stores paying the higher rates of wages. The natural result of the operation of this economic law is likely to be that the poorly paying employer will receive a poor quality of service. Managers of department stores are pretty shrewd judges of human nature; they know that appearances play a large part in the efficiency of their women workers, and they also know that the workers cannot keep up appearances if they do not receive fairly good wages. The more recent investigators seem to have realized the force of this

[96] Ibid., p. 12.

economic law and have, therefore, attributed the differences in wages between the different factories and department stores in part at least, to a difference in the quality of the service rendered or in the product turned out. The Massachusetts permanent minimum wage commission in its report on the candy industry says that "a possible explanation of such differences (differences in wages) may be in the kind of the product manufactured."[97] The New York Factory Investigating Commission says that difference in product may in part explain such variations.[98]

As a result of its investigation, the Massachusetts Minimum Wage Investigating Commission concluded that a large number of women and minors in the confectionery industry, retail stores and laundries of the State were receiving less than the amount required to maintain them in health and efficiency. Under such circumstances, the commission concluded, "Industry is in receipt of the working energy of a human being at less than its cost, and to that extent is parasitic. The balance must be made up in some other way. It is generally paid by the industry employing the father; it is sometimes paid in part by the future inefficiency of the worker herself and of her children and perhaps in part ultimately by charity and the State."[99]

It was the conviction of the Massachusetts Commission that the low wages of the women workers in the State necessitated a change in the contractual relations of employers and employes. The commission was of opinion that the best way to bring about this change was by the creation of a wage board system similar to that of Australia and England. Following the precedent established in America in dealing with railroad rates, the commission suggested the appointment of a permanent mini-

[97] Wages of Women in the Candy Industry in Massachusetts, p. 23.
[98] Third Report of New York Factory Investigating Commission, p. 81.
[99] Report of Massachusetts Commission on Minimum Wage Boards, p. 17.

mum wage commission. This commission was to have authority to investigate the wages of women and minors in any industry in the State, if it was persuaded that any substantial majority of the workers in it were receiving less than a living wage. If, after investigation, if found a substantial number of them earning less than a living wage, it was to be authorized to establish a wage board for the purpose of determining a minimum wage in the particular industry. This determination of the wage board was to be submitted to the commission for its approval, and in case the commission approved it, it was to give a two weeks' notice announcing a public hearing in the case. After the public hearing, it might issue a mandatory order establishing a minimum wage for women and minors in the particular industry in question.

The Massachusetts Commission presented its report to the legislature in 1912, but the legislature did not accept its recommendations. It feared the competition of other States in which wages were lower and hours longer than in Massachusetts and therefore refused to pass a really effective minimum wage law. For the effective minimum wage law proposed by the commission, the legislature substituted an emasculated law with no other sanction save that of public opinion. In the law as actually passed, provision was made for the appointment of a permanent minimum wage commission. This permanent commission was authorized to conduct investigations into the wages of women workers in the different industries of the State; it might create a wage board in any particular industry to make recommendations in regard to the minimum wage necessary to maintain the workers in health and efficiency. The commission might approve the recommendation of the wage board, but it had no authority to enforce it. About all it could do to give effect to the rulings was to publish them in at least one newspaper in each county in the State and to publish

the names of employers paying or not paying the minimum wage.

The permanent Massachusetts Minimum Wage Commission began its work July 1, 1913. Between that time and October, 1914, it made investigations of the wages of women employed in the brush industry, the corset industry, the confectionery industry and laundries. The following table summarizes the results of the commission's investigations in these four trades:

	number of workers investigated	percent earning under $4.00	under $5.00	under $6.00	under $7.00	under $8.00	under $9.00	$9.00 and over
Corset Industry ..	2,388	9.6	20.	35.5	53.5	68.7	83.6	16.4
Candy Industry ..	3,326	23.1	49.0	69.6	83.8	92.1	97.5	2.5
Brush Industry ...	597	17.6	42.7	66.2	79.0	88.6	93.	7.0
Laundries	3,000	8.2	25.0	51.5	68.8	82.2	91.8	8.2

From this table we can see that 66.2 per cent. of the brushmakers, 69.6 per cent. of the candymakers, and 35.5 and 51.5 per cent., respectively, of those employed in the corset industry and laundries of Massachuetts earn less than $6.00 a week. After the investigation, a wage board was created in the brush industry. At first thought one is inclined to wonder why the commission should have started with the brush industry, inasmuch as it is an industry in which interstate competition is very rife, but the commission had other reasons which offset the difficulty of interestate competition. In the first place, the brush industry was found to be one of the poorest paying industries in the State of Massachuetts; secondly, it is a very small industry, and the commission undoubtedly considered it more advisable to experiment on a small scale at first.

It was the policy of the Massachusetts Minimum Wage Commission to make the wage boards as far as possible representative of both sides. For this, employers and employes were asked to nominate persons to represent them on the brush board. The employes, although not suceeding in making a sufficient number of

appointments to constitute their representation on the board, were in nearly all cases ready to serve on it when required to do so. The invitations sent out by the commission to the employers and employes to nominate their representatives were responded to in two cases by the former and three cases by the latter, the persons nominated by the employers and employes being in all cases appointed by the commission as members of the board. The workers who were appointed to serve on the board were afraid lest they might incur the displeasure of their employers and be discharged from their positions, a fear which was certainly justified, for shortly after their appointment to the board, two workers were laid off.[100]

On June 12, 1914, the brush board submitted its recommendations to the commission. It recommended that a minimum wage of 15½ cents an hour, or $7.75 a week, for adult female workers should go into effect at once, and that at the end of the year, the rate should be raised to 18 cents an hour, or $9.00 a week, unless in the meantime employers brought such evidence before the board as would justify it in establishing a lower rate. The board recommended that learners and apprentices should receive 65 per cent. of the minimum and that the period of apprenticeship was not to be more than one year. If in any case the piece rate yields less than the hourly minimum for time workers, the same hourly minimum must be applied. To the recommendation of the board the commission gave its tentative approval on June 13 and announced that a public hearing would be held on the case June 29. After the public hearing, the commission entered a decree fixing the rate of wages in the brush industry. All the recommendations of the board were embodied in the decree save that which required an increase from 15½ to 18 cents an hour at the end of a year. The commission considered that before the end of

[100] First Annual Report of the Massachusetts Minimum Wage Commission, pp. 9-10.

the year it would have sufficient time to consider whether the present rates should be increased or not.

One of the principal questions that arises in connection with a minimum wage law in common with other laws is the question of its enforcement. The Massachusetts law was passed for the purpose of securing a minimum wage for the poorly paid workers of the State and if it does not attain this purpose, it is evidently of little avail. The commission may publish statistics of wages in the various trades, it may prescribe a minimum wage in each trade based on its investigations, but of what use is it all if employers do not pay the prescribed minimum? The Massachusetts law contains no other sanction which could induce employers to conform to the rulings of the Minimum Wage Commission save that of high ethical and social ideals and the fear of losing a part of their trade. But it is not at all clear to us that employers feel themselves bound to pay a minimum wage on ethical and social grounds. Most employers feel that they are doing all that they are obliged to do when they pay the market rate of wages; they feel that any higher rate will interfere with their business and deprive them of their lawful profits. The only thing, then, that can induce the average Massachusetts employer to conform to the rulings of the Minimum Wage Commission is the fear of losing part of his trade. It must not be forgotten, of course, that there are a number of employers in Massachusetts, as elsewhere, who will look upon the payment of minimum wage as a social and ethical duty. All that is necessary to induce such employers to pay a minimum wage to their workers is to bring the matter before them. These employers, perhaps, did not realize that the wages which they were paying in the past were not sufficient to maintain their workers in health and decency.

The commission is authorized to make public the names of those who comply with its minimum wage rulings, and it is contended that this publicity feature will

compel employers, through fear of losing their business, to comply with the rulings of the commission. Now the extent to which the trade of the employer will suffer by reason of his failure to pay the minimum wage will depend partly on the fact whether or not the employer is appealing directly to the patronage of the public. It seems to us that the number of persons who are interested in this question, if we except those directly concerned, is very few. Many persons would read the daily newspapers without taking any notice of the decrees of the commission. And even of those who might notice them, very few would be so interested as to take away their trade from the employer refusing to pay the minimum. The majority of the people go where they get the best service, and they will continue to do so unless some great change comes over them. Just as employers aim to get the highest profit from their invested capital, the public aim at obtaining the greatest amount of utilities and satisfactions out of the money which they expend. Another fact not to be lost sight of in this connection is that there is a large number of people who are not yet convinced of the necessity and feasibility of minimum wage legislation. It is true that a strong and well-organized campaign has been carried on during the past few years for the purpose of educating the public on its necessity and feasibility, but a strong and well-organized campaign has been also carried on by the opponents of minimum wage legislation for the purpose of prejudicing the public against it. Even though we suppose that the public are interested in and alive to the necessity of minimum wage legislation, still there are a great many employers who do not appeal directly to the patronage of the public, over whom, therefore, public opinion exercises very little influence. The brush manufacturer, for instance, does not appeal directly to the patronage of the public. Persons who buy brushes at retail hardware stores have no means of finding out whether or not the

manufacturer complied with the minimum wage ruling. The brush manufacturer does not even depend on the retail dealers of his own State for the sale of his products. Most of his products are sold outside the State in which he is operating.

When we come to harmonize these theoretical assumptions with actual facts in Massachusetts, we are confronted with a great difficulty. We find it difficult to believe that a voluntary minimum wage law can be really effective, yet it seems to be the general opinion that the rulings of the Massachusetts commission in the brush industry are very generally observed. In a recent letter to the writer, a member of the commission says: "We have just completed an examination of the workings of the minimum wage law in all the brush factories and in every brush establishment of any importance the minimum wage is being paid." More recently we have heard of workers being discharged because they were unable to earn the minimum wage. In spite of these facts, however, and we have no reason to doubt them, we are still very doubtful about the effectiveness of a voluntary minimum wage law. If Massachusetts had a compulsory minimum wage law for the past three years, not only the 1,800 brush workers but also the women in all the other industries in the State would in all probability by this time be receiving living wages. The effectiveness of the minimum wage ruling in the brush trade may be due to their realization of the fact that it is a better economic policy to pay living wages to their workers than not, or to the exceptional efficiency of the Massachusetts commission. We doubt very seriously whether the ruling could be equally effective in a larger industry, especially where there is a strong employers' organization.

The Massachusetts law, however, is a step in the right direction. Public opinion in Massachusetts is in all probability not yet ripe for compulsory minimum wage legislation and the present law will undoubtedly do a

great deal towards preparing it for compulsory legislation. The investigations of the present minimum wage commission must inevitably convince the public of the necessity of really effective minimum wage legislation. A great deal has been already done by the Massachusetts law in the formation of public opinion in other States. When there was a question of passing minimum wage laws in other States, their advocates have been able to point, and with considerable effect, too, to the example of Massachusetts, one of the most advanced States in the Union, as already having a minimum wage law on its statute books. Until quite recently the non-compulsory feature of the Massachusetts law does not seem to have attracted much attention. What attracted the attention of the ordinary individual who wanted to see something done to improve the condition of the working girls, was that Massachusetts had adopted an effective means to this end and that there was, therefore, no reason why other States should not adopt the same means.

A minimum wage law following almost exactly the same lines laid down by the Massachusetts law was passed by the legislature of Nebraska in its session in 1913. The Nebraska law, like that of Massachusetts, made provision for a commission, for investigation and for wage boards. The legislature, however, failed to make any appropriation for the administration of the law and thus rendered it nugatory. So little interest did the people of Nebraska take in this law that very few of them know of its existence.

CHAPTER X.

THE UTAH MINIMUM WAGE LAW.

Under our modern minimum wage laws the State does not, as a general rule, determine the minimum rate of wages to be paid to the workers. It has been generally felt that on account of the different needs of the workers in different industries, it would be a better public policy to leave the fixing of the minimum rates in each industry to some public body already in existence or specially created for this purpose. To this general rule the minimum wage law of Utah is a notable exception. The legislature of this State has fixed certain minimum rates of wages, below which no female worker may be employed. It was not at all according to the desires of the State Federation of Women's Clubs, which sponsored the Utah law, that the wages of women and minors should be determined in this arbitrary manner. The federation had a law drawn up and introduced into the State legislature, a law similar in all respects to the laws passed in the same year in Oregon, California, Washington, Minnesota and Wisconsin. The proposed law provided for a commission with full power of inquiring into the wages paid to women and girl employes in the various occupations in which they were engaged, with a view of ascertaining as nearly as possible the adequacy of the then prevailing wages to supply the employes with the necessary cost of living and to maintain them in efficiency. The commission was also to be authorized to establish a wage board to determine minimum wages for women in occupations in which the present wages were found to be inadequate to maintain them in becoming decency.

In this form, the law was strongly opposed by the merchants and manufacturers of the State of Utah. They were especially opposed to the publicity clauses of the bill, which would give the commission power to con-

duct investigations into their business and publish the results of these investigations in the daily papers. At the public hearings before the House Committee on Labor, the arguments for and against the law were discussed by the representatives of employers and employes, but neither side was willing to make any modifications in its proposals. At length, some representatives of the employers drafted a bill which was accepted as a compromise. The new bill did not provide for any commission or wage board. It simply prescribes a specific minimum wage to be paid by all employers in the State to women and minors in their employment. For experienced adult women workers, the Utah law prescribes a minimum wage of $1.25 a day; for adult learners and apprentices, it prescribes a minimum wage of 90 cents a day, and for female workers under 18 years of age, 75 cents a day. The law further specifies that any regular employer of female workers who shall pay any woman less than the prescribed minimum shall be guilty of a misdemeanor. The administration of the Utah law was placed in the hands of the Commissioner of Immigration, Labor and Statitstics, and for this purpose the commissioner was authorized to employ an additional deputy, who was to be a woman, at a salary of $800 a year.

The Utah law became effective May 13, 1913. "The total number of women and girls in Utah," according to the Commissioner of Immigration, Labor and Statistics, "coming under the operations of the law numbered about 12,000."[101] Of this number, about 6 per cent. were under 18 years of age, and about 10 per cent. were classified as learners and apprentices. The majority of the employes under 18 years of age were employed as cash

[101] Utah Minimum Wage Law for Females, by T. Haines. When the commissioner says that about 12,000 female workers come under the operation of the law he is evidently referring to the total number of female employes in Utah. According to the census reports, the total number of females employed in the State of Utah is 15,806.

girls and wrappers and were receiving about $4 a week. The minimum wage law increased the wage of this class to $4.50 a week. Girls working in the laundries who were formerly receiving from $6 to $7 a week are now paid $7.50 a week. Chambermaids in hotels and rooming houses, who before were receiving $1 a day, are now receiving $1.25.

The Utah law appears to be a really effective minimum wage law, according to the commissioner who is charged with its enforcement. It has increased the wages of several thousand employes.

During 1914, over $8,000 was collected from employers as arrears of wages. In order to have employers pay these arrears of wages, it has been unnecessary in most instances to sue them. So far, only seven cases have been brought before the courts and six out of these have been decided in favor of the employes. One case, in which the proprietor of a dressmaking establishment was convicted of paying an apprentice $5 instead of $5.50, was afterwards appealed to the Supreme Court of the State, on the ground that the law fixing the minimum wage was unconstitutional. At the present writing, the case is still pending before the court.

We cannot better summarize the practical effects of the Utah minimum wage law than in the words of Mr. Haines, Commissioner of Immigration, Labor and Statistics of the State, whose office is charged with its administration: "It (the minimum wage law) may be said to have been instrumental in raising the wages of a number of women and girls who most needed the additional sums of money it has placed in their hands. It has not increased the payrolls in establishments employing any considerable number of women over 5 per cent. As an offset to this, most employers admit that they have obtained increased efficiency, because proprietors or managers of many establishments employing a large number of female workers immediately preceding the date of this

law becoming effective, made the occasion an opportunity for heart-to-heart talks with their female employes to emphasize the fact that it would be up to them (the employes) to make good, in order to hold their positions. This presentation of the situation is alleged to have a leavenous effect upon quite a few deficient employes who are now drawing more than the minimum wage. A very small number of women and girls who failed to produce the results fixed as necessary were dismissed from establishments, but most of them found other work for which they were better adapted and consequently we can recall but few cases where a woman or girl has been utterly deprived of employment because of the law."

In Utah the employers have not lowered the wages of the better paid workers in order to compensate for the increase granted to the poorly paid workers. On this point Mr. Haines remarks that of the 12,000 workers coming under the provisions of the law, he had not been able to find one woman or girl who was drawing $7.50 at the time the law went into effect whose wages have suffered a decrease. "The situation now is," says the Commissioner, "that a much larger number of employes in Utah are drawing a wage in excess of the highest minimum wage than those who are paid the legal wage itself."

CHAPTER XI.

OTHER AMERICAN COMPULSORY MINIMUM WAGE LAWS

In addition to Utah, six other American States, California, Colorado, Minnesota, Oregon, Washington and Wisconsin, passed minimum wage laws in 1913. As was already noted, these laws are based on a somewhat different principle from that underlying the Utah law. In Utah, the State directly fixes minimum rates of wages for female workers. In the other States having compulsory minimum wage laws, it was deemed wiser to have the legislature lay down certain general standards of wages and sometimes of hours and working conditions, and to create a commission for the purpose of interpreting and applying these standards in each industry. Besides the commission, all these States, except Colorado, provided for wage boards or conferences, which were to aid the commission in interpreting and applying the general standards laid down by the legislature.

It is the purpose of the writer in this section to make an analysis of the six before-named compulsory minimum wage laws. With this purpose in view, it was thought better to select only one law, that of Oregon, and make a clear analysis of it, and afterwards to point out how far its various sections agree with, and how they differ from, the other laws. The Oregon law has been selected because it was the first of the compulsory acts providing for a commission to be put into effect.

The title of the Oregon law clearly announces its purpose. It reads: "An act to protect the lives and health and morals of women workers, etc."[102] The preamble states why women and minors should be protected and what they should be protected against in this particular instance: "Whereas, The welfare of the State of Oregon

[102]Oregon Laws, 1913, Chap. 62.

requires that women and minors should be protected from conditions of labor which have a pernicious effect on their health and morals, and inadequate wages and unduly long hours and unsanitary conditions of labor, have such a pernicious effect, etc."

Actuated by the prevalent opinion that the employment of women or minors for inadequate wages, abnormally long hours, or under unsanitary conditions is detrimental to public health and morality, the State of Oregon seeks to prohibit such things within its borders. The Oregon law, therefore, lays down the general principle that "it shall be unlawful to employ women or minors in any occupation within the State . . . for unreasonably long hours, and it shall be unlawful to employ women or minors in any occupation . . . under such surroundings or conditions—sanitary or otherwise—as may be detrimental to their health and morals, and it shall be unlawful to employ women in any occupation . . . for wages that are inadequate to supply the necessary cost of living and to maintain them in health, and it shall be unlawful to employ minors in any occupation for unreasonably low wages."[103]

As a means of declaring what constituted reasonable wages, hours and working conditions, the law makes provision for the establishment of an Industrial Welfare Commission. In order to avoid the constitutional difficulty in regard to the delegation of legislative powers, the legislature of Oregon clearly emphasizes the fact that the purpose of the commission was not to legislate, but to "ascertain" and "declare." In regard to the personnel of the Industrial Welfare Commission, the Oregon law specifies that it shall consist of three members, one representing the interests of the employing class, one representing the interests of employers, and one who shall work for the interests of the public as a whole.

[103]Oregon Laws, 1913, Chap. 62.

The Oregon commission is authorized to investigate the wages, hours and working conditions of women and minors in any occupation within the State. If, after investigation, the commission finds any substantial number of them in any occupation working unreasonably long hours, for inadequate wages, or under conditions detrimental to their health and morals, it is authorized to establish a conference in such occupation, consisting of not more than three representatives of the employers, three of employes and three representatives of the public, together with one or more commissioners. All the members of such a conference are selected by the commission. All the information which the commission possesses in regard to the industry or occupation in question may be transferred to the conference. After further investigation, the conference makes a recommendation to the commission in regard to wages, hours and working conditions.

After receiving a recommendation from the conference in regard to wages, hours and conditions, the commission may approve or disapprove it as it sees fit. If it disapproves the recommendation of the conference, it may submit the matter again to the same or a new conference. In case it approves the recommendation, it is authorized to give a four weeks' notice of a public hearing, which all persons interested are invited to attend. If, after the public hearing, it is still satisfied that the recommendation of the conference is reasonable, it may issue an order giving it the force of law and making it obligatory on all employers in the particular trade after a period of sixty days. Any violation of the order of the commission constitutes a misdemeanor punishable by a fine of not less than $25, nor more than $100, or imprisonment in the county jail, or both. In order to prevent as far as possible the displacement of persons unable to earn the minimum, the Oregon law authorizes the commission to grant special permits to the old and

physically defective employes, allowing them to work for less than the minimum. For these the commission is empowered to fix special rates of wages.

The provisions of the Oregon law in regard to the establishing of a conference and the holding of a public hearing refer exclusively to adult female workers. In the case of minors, the commission may, after investigation, fix minimum rates of wages without establishing a conference or holding a public hearing.

The enforcement of the Oregon minimum wage law, in a great measure, devolves on the Commissioner of Labor. This official has his deputies in the various centers in the State, who visit the factories and stores in order to see that the minimum wage law, as well as the other labor laws, are properly observed. When the deputy finds that the workers in any factory or store are not being paid the amount required by the minimum wage ruling, he tries to induce the employer to make up the deficit, and if he does not succeed, he brings the matter into court. The commission itself also makes sure that its rulings are being properly observed, and for this purpose it examines, from time to time, the payrolls of employers. But, even independent of the Labor Commissioner or the Industrial Welfare Commission, wage-earning women may recover the full amount of wages due to them under the Oregon rulings. The law permits any woman worker, who has been paid less than the legal minimum, to collect in a civil action the difference between what she has received and the legal minimum.

The minimum wage laws of California and Washington are practically the same as that of Oregon, after which they are modeled. The only difference of any consequence between these three laws is that whereas those of California and Oregon regulate wages, hours and working conditions, that of Washington is confined to the regulation of wages and working conditions. The Minnesota minimum wage law, also, provides for the

establishment of a commission, known as the Minimum Wage Commission. Unlike the Oregon, Washington and California commissions, the powers of the Minnesota commission are confined to the fixing of minimum rates of wages. In order to assist it in this work, the commission may set up an advisory board. It may, however, act independently of such a board whenever it pleases. It may fix minimum rates of wages without having recourse to any board, and even after the board has made a recommendation, the commission may fix a different rate of wages from that which has been recommended. In Wisconsin, the administration of the minimum wage rests with the Industrial Commission already established in that State. Like the Oregon and California laws, the Wisconsin law regulates not alone wages but, also, hours and working conditions. In Colorado, the whole work of investigating and determining minimum rates of wages is done by one State wage board, which, in constitution and functions, corresponds to the commissions of other States. As in Oregon, so, also, in the other States, the enforcement of the minimum wage law practically devolves upon the Commissioner of Labor.

CHAPTER XII.

THE OREGON MINIMUM WAGE LAW BEFORE THE COURTS.

The Oregon minimum wage law, like every other form of progressive social legislation adopted in America, had to stand the test of the courts. It was the first compulsory minimum wage law of its kind to come into operation in this country. It was, also, the most carefully drafted of all our American minimum wage laws, and had been administered conservatively and worked smoothly. For these reasons, the advocates of minimum wage legislation were glad to have a test case made of the Oregon law so that the courts might have an opportunity of finally pronouncing upon this new form of legislation.

Not long after Order No. 1, fixing the minimum wage for experienced adult women workers in the manufacturing establishments in Portland, at $8.64 a week, had gone into effect, Mr. Frank C. Stettler, a paper box manufacturer, petitioned the district court of the county of Multnomah, in which Portland is situated, for a permanent restraining order to prevent the commission from enforcing the order. The plea for the injunction was based on the following grounds at law: It was claimed, in the first place, that the minimum wage law deprives the plaintiff of his property and liberty without due process of law; secondly, that it denies the plaintiff equal protection of the law; thirdly, that it provides for the taking of the property of the plaintiff without just or any compensation; fourthly, that it denies and deprives the plaintiff of the right to have the order of the commission judicially reviewed and determined; fifthly, that it attempts to delegate legislative powers to a commission.

The district court refused to grant the petition of the plaintiff on any or all of these grounds, whereupon the case was appealed to the Supreme Court of the State of

Oregon. On March 17, 1914, the Oregon Supreme Court handed down a decision upholding the decision of the lower court.

The real purpose of the suit before the Oregon Supreme Court was to determine whether or not the legal regulation of the wages of women workers conflicted with Section 1, of the Fourteenth Amendment to the Federal Constitution[104] and Section 20, Article 1, of the Oregon Constitution. Before coming to the real question at issue, the court made a review of the recent trend of judicial opinion in regard to the regulation of hours of women workers. It cited the decision of the United States Supreme Court upholding the Oregon 10-hour law for working women, in order to show that the courts had already taken cognizance of woman's physical weakness and the necessity of legislative action in order to protect her against excessively long working hours. " 'That woman's physical structure and her performance of her maternal functions,' " said the court, quoting from the Oregon 10-hour decision, " 'place her at a disadvantage in the struggle for subsistence, is obvious.' " The court, also, emphasized the important fact that legislation designed for women's benefit was not for her benefit alone, but for the benefit of the race. " 'The limitations which this statute places upon her contractual powers, upon her right to agree with her employer, as to the time she shall labor, are not imposed solely for her benefit but also for the benefit of all. Many words cannot make this plainer. . . . This difference justifies a difference in legislation and upholds that which is designed to compensate for some of the burdens which rest upon her.' " "The conditions mentioned in the above quotation," the

[104] "No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law or deny to any person within its jurisdiction equal protection of the law."—From the Fourteenth Amendment of the Constitution of the United States.

court went on to say, "lie at the foundation of all legislation attempted for the amelioration of woman's condition in her struggle for subsistence."

All the laws regulating hours and working conditions interfere with the individual's freedom of contract just as do the laws regarding the manufacture and sale of dynamite, or the laws prohibiting the manufacture and sale of opium. All of them would be in conflict with the Fourteenth Amendment of the Federal Constitution if they were not justified as police measures. They have been upheld by the courts as coming within the power of the State, sometimes termed its police power, to promote public health, welfare and morality even at the sacrifice of certain legal rights of the individual.

As to whether or not a particular measure of social reform is justified on the grounds of public health and morality, it is the function of the legislature to decide. The legislature is supposed to be a faithful register of public opinion; it is supposed to be acquainted with the wants and needs of the people; it is supposed to know the facts upon which social legislation is based. A free people speak through their legislature; they determine through their legislature how business is to be carried on; they determine what kind of business is for their welfare and what is not; they determine whether free contract or regulation is the better method of determining the various conditions of the labor contract; the number of hours the laborer is to work, the conditions under which his work is to be carried on and the price which he is to receive for it. If a free people, acting through their legislature, determine that a certain legislative measure is designed for the conservation of public health and public welfare, the probability is that this measure is expedient, and the courts cannot interfere except on the grounds that the object which the legislature had in view and the means devised to attain it, are plainly and palpably outside the bounds of a reasonable public policy. This is an opinion of long

standing in the courts and one that is supported by a great weight of authority. In regard to it, the Oregon decision says: "Granting then that there is a liberty of contract which cannot be violated even under the sanction of direct legislative enactment, but assuming, as under settled law we may assume, that such liberty of contract is subject to such regulations as the State may reasonably prescribe for the common good and well-being of society, what are the conditions under which the judiciary may declare such regulations to be in excess of legislative authority and void? Upon this point there is no room for dispute for the rule is universal that a legislative anactment, Federal or State, is never to be disregarded or held invalid unless it be beyond question plainly and palpably in excess of legislative power."

Many of the States, as the Oregon court intimated, have determined that legal regulation of the hours of working women is justifiable and necessary on the grounds of public policy, and the acts of the legislatures in this matter have been always upheld by the courts with the single exception of Illinois where a 10-hour law was first held unconstitutional by the supreme court.

But even the Illinois court has found it necessary to reverse itself and to uphold as constitutional a similar law passed by the legislature at a more recent date. In 1913, the legislature of Oregon determined that the regulation of the wages of working women was also justified on the grounds of public policy. The act of the legislature was not based on any sudden or ephemeral movement. It was based upon certain well authenticated facts which had been brought to the attention of the people of Oregon inside of the past three or four years. In the first place there was the fact that a very high percentage of working women in the State were in receipt of wages that were insufficient to maintain them in health and efficiency. Secondly, there was the fact based upon common knowledge and the opinions of the best students of the question

that the low wages of women workers not alone interfere with their own health and well-being but with the health and well-being of the community as a whole. The States had been casting around for a remedy for this evil which was menacing the health and well-being of their citizens. In the wages board system they found a remedy that had operated successfully in England and Australia. This remedy might not have been the best possible remedy; the evidence for its successful operation in Australia and England might not have been convincing to many minds. Furthermore the fact that this remedy had operated successfully in the above-named countries might not be a sufficient evidence of its adaptability to American conditions. All this might have been true and yet offer no strong proof against the application of the wages board system in America. It is by experimenting that we find remedies for our physical evil and it is by experimenting also that we must discover remedies for the evils of our industrial order. No man can tell for certain, beforehand, how any law is going to work. Every new law is a thrust into the darkness but this does not prevent us from passing new laws, it does not prevent the process of social experimentation from going on.

In the low wages of women workers we have a real evil for which the State is as much bound to provide a remedy as it is for long hours and unsanitary working conditions. "Every argument put forward to sustain the maximum hours law upon which it rests," says the Oregon Supreme Court, "applies equally in favor of the constitutionality of minimum wage law as also within the police power of the State and as a regulation tending to promote public health and morality." This opinion was, of course, based on the fact that there existed an evil, namely, the evil of low wages for which the State was bound to provide a remedy and also on the fact that minimum wage legislation was calculated to remedy this evil. The legislature had determined that minimum wage legislation was

an effective remedy for low wages. The court could not say that the legislature was wrong in its determination. It could not say that minimum wage legislation had no relation whatsoever to the evils of low wages.

Having disposed of the main question at issue, the court went on to consider the other charges brought forth by the plaintiff. It was charged that the ruling of the commission against which the plaintiff had sued for an injunction, was discriminatory in that it applied to manufacturers in Portland alone to the exclusion of those in other parts of the State of Oregon. To this charge the court replied: "that the law by which the plaintiff is bound . . . applies to all the State alike. The other provisions of the act are for the purpose of ascertaining for those who are not complying with it, what are reasonable hours of labor and what are reasonable wages in the various occupations and localities in the State." The ruling of the commission was applied to Portland alone because the commission had found a substantial number of the working women in the manufacturing establishments of that city receiving wages that were inadequate to maintain them in health and efficiency, a condition which was not yet found to exist in the other parts of the State of Oregon. The plaintiff also charged that the Oregon law delegated legislative powers to a commission. This charge was disposed of by the fact that: the Oregon commission was not authorized to "fix" but to "declare" reasonable standards of wages, hours and working conditions for women in the different industries of the State. The powers of the commission were almost exactly like those of the railroad rate commission. In both cases the law laid down a general principle which the commission was to interpret and apply as the occasion arose. If, therefore, the laws creating railroad rate commissions were constitutional, there is no reason why a law creating a commission to declare standard rates of wages, standard hours and standard working conditions should

be held unconstitutional. This, in substance, was the view of the Oregon Supreme Court upon the question of delegating legislative powers to a commission.

A further charge made by the plaintiff was that the minimum wage law denied the plaintiff the right to have the reasonableness of the order judicially reviewed and determined, which it was claimed, was not in accordance with due process of law. To this the court replied that due process of law merely requires such tribunals as are proper to deal with the subject in hand, reasonable notice and a fair opportunity to be heard, before some tribunal before it decides the issues are the essentials of due process of law. All these things were provided for by the Oregon law. In the first place, the law authorized the commission to make an investigation of wages, hours and working conditions of women in the different trades. During the course of this investigation public hearings are held at which all interested persons may attend. Secondly, the law provided for the establishment of a conference in each industry consisting of an equal number of employers and employes together with some representatives of the public and one or more commissioners. This conference was to conduct public hearings at which all persons interested might attend. Thirdly, the law provides for public hearings by the commission on the reports of the conferences at which all persons interested may also attend. The only cases in which an appeal may be demanded against the rulings of a properly constituted commission are when the commission has acted outside of its authority or when its rulings are confiscatory. On this point the Oregon Supreme Court quoted at length from a Kentucky railroad case, decided by the Supreme Court of the United States. The plaintiff in the case had attacked the orders of the Kentucky railroad commission because they were final and conclusive without the right of appeal, and that by reason thereof plaintiff was deprived of property without due process of

law. In deciding this question, the court said: "It (the law) required a hearing and a determination by the commission whether the existing rates were excessive. But on those conditions being fulfilled, the question of fact which might arise . . . would not become as such, judicial questions to be re-examined by the courts."

Shortly after the petition of the paper box manufacturer had been denied by the circuit court an employe of the same manufacturer also applied for an injunction on the ground that if the order of the commission was enforced she would be arbitrarily deprived of her employment and of her means of earning a livelihood. This petition was also denied by the circuit court. The case was then appealed to the Supreme Court of Oregon on the grounds that in the former case the court did not decide whether or not the minimum wage act contravened Section 1 of the Fourteenth Amendment to the Federal Constitution which provides: "No State shall make or enact any law which shall abridge the privileges or immunities of citizens of the United States." On this question the court went on to say that while this clause is not specifically referred to in the former decision it was certainly intended by that opinion to express the conviction of this court that the act in question violated no precept of the Fourteenth Amendment. In the previous case the court decided that the State had the power of prohibiting the employment of women and minors for abnormally long hours, for unreasonably low wages, or under conditions detrimental to their health and morality, and since this was the case, no citizen could claim it as a right or immunity to employ women or minors under these conditions. Referring specifically to Section 1 of the Fourteenth Amendment to the Federal Constitution, the court said that it was thought expedient to make the general Government (through this amendment) a coguaranteer with the States of these fundamental privileges of free men. But that the effect of this would be to limit the

power of the States to enact reasonable laws for the protection of their women and children against the consequences of labor for a length of time tending to impair health or at a wage barely sufficient to sustain life, never entered the imagination of the statesman who framed it.

From the decisions of the Supreme Court of Oregon, the paper box manufacturer of Portland and his employe have taken a joint appeal to the Supreme Court of the United States. On December 11, 1914, the case was argued by the counsel on each side and a decision is soon expected. If this decision is favorable, it will give a great impetus to the minimum wage movement in this country.

CHAPTER XIII.

SOME OBJECTIONS TO MINIMUM WAGE LEGISLATION CONSIDERED.

The first and most frequent objection urged against minimum wage legislation for women and minors in this country is that they do not need a living wage. Employers freely admit that the wages paid to a fairly large percentage of women workers are not sufficient to maintain them in health and decency, but they contend that the majority of them live at home and normally expect to depend on their families for support. But putting aside for the moment the question of the working women living at home, we still have the important question in regard to those who have no homes, and who must depend either on wages or public charity for support. All the investigation of the wages of women workers in this country in recent years show that a fairly large percentage of them are living away from home. The United States Bureau of Labor Statistics in its elaborate report in 1911, on Women and Child Wage-earners in this country, showed that of the women employed in the department stores in Boston, Chicago, Minneapolis, St. Paul, New York, Philadelphia and St. Louis, seven cities in all, 28.2 per cent. lived away from home. The percentage living away from home in some cities was higher than this general average, while in others it was considerably lower. In Boston it rose as high as 38.8 per cent., while in New York, it was 7.9 per cent. The New York Factory Investigating Commission found that of the women employed in the paper box industry in the city of New York, 64 per cent. lived at home, 19 per cent. lived with relatives and 17 per cent. lodged with strangers. These workers living away from home evidently need a living wage and it is much to be desired that they receive one.

But the need of a living wage is not confined exclusively to working women living away from home. It is a fact of common knowledge that a large percentage of women workers belong to families of very modest incomes. Sometimes the working girl is the only support of the family. More frequently she has to help the father who is receiving low wages, to maintain a household of four or five members. In such a case it is highly desirable that she earn at least her own living.

While it is a general impression that a fairly large percentage of women wage-earners living at home cannot expect to depend on the families for partial support, we cannot tell exactly how far this condition actually exists for our information in regard to the economic conditions of families of working women is, indeed, very meagre. The Massachusetts Commission on Minimum Wage Boards and the New York Factory Investigating Commission devoted some attention to this point. The Massachusetts commission found that 87 per cent. of the candy workers in the State belonged to families with one other wage-earner besides the candy worker and 14.6 per cent. belonged to families with no other wage-earner besides the candy worker. The New York Factory Investigating Commission in its investigation of the women wage-earners in the paper box industry in the city of New York found that out of 156 families of paper box workers eight had no other wage-earner in the family besides the paper box worker. Forty-five had only one other wage-earner, and forty-three had only two other wage-earners besides the paper box worker. As regards the desirability of a living wage for workers who belong to families with no other wage-earner there cannot be any question. If these working women do not receive a living wage both they themselves and their families must suffer, but it is not at all evident from the above figures that the women workers who belong to families with one other wage-earner suffer hardships and privations by reason

of the fact that they do not receive living wages. The opponent of minimum wage legislation may contend that the low wages of the working girl are offset by the high wages of her father or brother and it must be admitted that we have no exact information by means of which we may refute this contention. The New York Commission has collected some information on this point which is highly suggestive but not conclusive. The commission found that out of ninety-eight families of paper box workers in regard to whom it obtained specific information, eleven had an income of less than $12.00 a week; fifteen had an income of less than $13.00 a week; twenty had an income of less than 15.00 a week, and fifty had an income of less than $25.00 a week.[105] This information, however, is lacking in one essential; it does not show that the poorly paid workers belonged to the families with small incomes.

A second objection urged against minimum wage legislation by its opponents is that it will lead to the displacement of the workers who are not worth the minimum. The opponents of minimum wage legislation claim that it is better to have these workers employed for less than a living wage than to have them thrown out of employment altogether and made public charges. The displacement brought about by minimum wage legislation, it is claimed, will be all the more serious if the minimum is fixed at a high point as must happen if a personal living wage is to be secured for the worker and especially if a family living wage is to be secured. This objection may be deprived of a good deal of its force and the displacement of the less efficient workers may be minimized in three ways. In the first place, the displacement may be minimized by fixing the minimum first at a low point and by giving industry a chance of readjusting its working force to this first change before a higher rate is fixed. Secondly, it may be

[105] Third Report of the New York Factory Investigating Commission. Appendix II, p. 150.

minimized by making provision for the granting of special permits to the aged, infirm and the slow workers, allowing them to work for less than the minimum. Thirdly, the displacement might be minimized by having a graduated scale of wages for apprentices such as is provided for by the Washington Industrial Welfare Commission. The rules of the Washington Commission provide that a wage of not less than $6.00 a week shall be paid to each apprentice in the mercantile stores during the first six months' period of employment of such apprentice, and a wage of not less than $7.50 shall be paid to an apprentice during the second six months' period of employment of such apprentice.

A prominent economist in reply to the writer's questions in regard to the feasibility and effects of minimum wage legislation, expressed the opinion that the two causes of low wages were an over-supply of workers in certain industries and inefficiency. In regard to the contention of this economist, it may be said that some of the most important results of minimum wage legislation will be to counteract these two causes of low wages. In the first place, minimum wage legislation will regulate the supply of workers in each industry. The Oregon Industrial Welfare Commission restricts the number of persons entering each trade by fixing a minimum wage for apprentices. The Washington Commission goes further in this matter than that of Oregon. Not only does it regulate the wage of apprentices but it limits the percentage of apprentices in each establishment. A circular issued on April 28, 1914, by the Washington commission defines its policy in regard to the regulation of apprenticeship in the mercantile stores. Clause 4 of the circular reads as follows:

"No license shall be valid in any mercantile establishment where more than 17 per cent. of the total number of adult female employes are apprentices nor where more than 50 per cent. of such apprentices are receiving

less than a weekly wage of $7.50." (This is the weekly wage to apprentices during the second six months' period of their apprenticeship).

In the second place, minimum wage legislation will improve the efficiency of the workers. By displacing the least efficient workers, it will call public attention to their inefficiency and will thereby induce the State to make proper provision for them. If the inefficiency of the workers is due to lack of proper training, it will be the duty of the State through its educational institutions to provide such training for them. In so far as the inefficiency of the workers is due to certain ineradicable phyical or mental defects, it will be the duty of the State to make some special provision for them. At the present time the inefficient workers demoralize the labor market in that they induce employers to place a premium rather on numbers than on the quality of their labor and prevent the workers of ordinary efficiency from getting a sufficient return for their labor. It ought to be counted an advantage rather than a disadvantage of minimum wage legislation, if it drives the hopelessly inefficient workers from the labor market and forces society to do its duty towards them.

The experience of England and Australia does not warrant us in believing that minimum wage legislation at least in the form in which it is being adopted in America, will create any very serious unemployment problem. When the Victoria law first went into effect, it seems to have displaced a number of inefficient workers and even up to the present time, the inefficient workers create a large problem for the wages boards of that State. In this regard, however, it is well to remember, that Victoria took a wide and sudden sweep into the field of wage regulation without giving the industrial and educational institutions of the country a chance to readjust themselves. Such a sudden sweep into the field of wage regulation was bound to have its evil effects if the State was not

prepared to make immediate provision for the inefficient workers. With the conservative methods of procedure adopted in England and this country, there is not the same danger of a sudden displacement of the inefficient workers. But no matter how conservatively we proceed, the minimum wage legislation, if it is to be really effective, will displace some inefficient workers.

As to the precise results of this legislation in displacing the inefficient workers, it is too soon as yet to form any definite conclusion. The Utah law by which the legislature directly fixed the minimum rates of wages to be paid to female workers went into effect May 13, 1913. The first ruling of the Oregon Industrial Welfare Commission went into effect October 4, 1913, and the first ruling of the Washington Commission went into effect June 24, 1914. As regards the effects of the Utah law in displacing the less efficient workers, the Commissioner of Immigration, Labor and Statistics, writes: "A very small number of women and girls who failed to produce the results fixed as necessary were dismissed from establishments, but most of them found other work, for which they were better adapted and consequently we can recall but few cases where a woman or girl has been utterly deprived of employment because of the law." Some employers in Portland claim that the Oregon law has compelled them to discharge a number of inefficient workers. Thus one employer writing to us about the beginning of last December, says: "When the minimum wage law first took effect it was necessary for us to discharge a few of our girls, owning to their utter inability to make near the minimum wage. We have kept a number of semi-efficient girls in the hope that the United States Supreme Court may decide in our favor." Another Portland employer, writing to us about the same date, declared that "during the past year quite a number of inefficient employes had been discharged and that quite a number of the inexperienced help had quit because they felt that they should

be paid the minimum regardless of their efficiency." In Washington and Oregon as in all the other States a large number of persons have been thrown out of employment during the course of the past year owing to the general business depression. In such circumstances, of course, the inefficient workers would be the first to be displaced. This makes it very difficult to tell how far the displacement of the inefficient workers in Washington and Oregon during the past year, has been due to minimum wage legislation. On this point, the secretary of the Oregon Industrial Welfare Commission, Miss Caroline Gleeson, in a recent letter to the writer, says: "It is very difficult to decide exactly what the effect of the law has been in the displacement of workers because of the financial depression which has thrown a great many out of work." The secretary of the Washington Industrial Welfare Commission in a recent letter also says: "It may be that to a limited extent the new law is displacing the less efficient." In the same letter, however, the secretary says, "we note through applications for apprenticeship licenses in various industries that girls who were formerly employed in mercantile establishments are now seeking employment in factories and that those formerly employed in factories are now employed in laundries."[106] There seems, therefore, to be no ground for fearing that the minimum wage laws will cause a sudden displacement of the less efficient workers. In so far as displacement may take place it will be slow and gradual. A premium will be placed upon efficiency and society will be aroused to the necessity of bringing the inefficient workers up to the standards demanded by the minimum wage rulings.

[106]The Washington Industrial Welfare Commission in its First Biennial Report recently issued, makes the following statement in regard to the effects of minimum wage legislation in the mercantile establishments, laundries, and telephone exchanges of the State. "There has been no wholesale discharge of women employes, no wholesale leveling of wages, no wholesale replacing of higher paid workers by cheaper help, no tendency to make the minimum the maximum." (Report, p. 13).

The U. S. Bureau of Labor Statistics has recently made a study of the effects of the Oregon law. This report is expected to appear shortly.

A third objection which is sometimes urged against minimum wage legislation is that it does not take into account the value of the service rendered; that it fixes a flat rate of wages for all employes independent of the value of their labor. Now this objection is only partially valid. In the first place, nearly all minimum wage laws fix lower rates of wages for learners and apprentices and they also make special provision for those who by reason of age or infirmity are unable to earn the legal minimum. Secondly, the rate fixed by a minimum wage commission is only a minimum rate and all employers are free to dismiss persons not able to earn the minimum. It is to be expected as we shall see in discussing another objection to minimum wage legislation that competition will still continue to influence the wages of the more efficient workers and will raise them above the legal minimum. Thirdly, minimum wage will compel employers to exact from their employes standards of performance commensurate with the increase of wages granted to them.

With all these qualifications, it must be admitted that there is some force in this objection urged by the opponents of minimum wage legislation. But the same objection can be urged with equal or even greater force against any trade union scale of wages. Any general time scale of wages cannot take into account the variations of efficiency in the individual workers and it is even doubtful if it can take into account the various grades of efficiency among the different classes of workers in the same trade. Some trade unions have a differential for the different grades of efficiency among their members, but the majority of them are opposed to it, for the reason that it offers an inducement to employers to employ the less efficient workers.

A fourth objection often advanced to minimum wage legislation is that it cannot be maintained in seasons of depression. To this objection, it may be answered, in the first place, that the trade unions succeed fairly well in maintaining their standard rates of wages through seasons of business depression, but, of course, with considerable unemployment. Secondly, it may be a better economic policy to maintain the efficiency of such as continue employed even in seasons of depression. This, of course, may entail an immediate loss to employers but it is a loss that can be easily made up in seasons of prosperity. Some of the employers in the clothing industry have been trying to cut down their labor supply in the course of the past year for they feel that they can obtain better service if they keep a certain number of workers steadily employed than by keeping a large number of workers on their hands to whom they can give employment only for a part of the year. This very question was the cause of a bitter strike in the clothing trade in Baltimore last year. A large clothing establishment of that city laid off a number of its employes for the purpose, it was asserted, of giving steady employment to the remainder. A third answer to this objection is that the rates fixed by the board may be lowered in seasons of depression if the conditions of business demand it. Rates previously fixed by the boards have been sometimes lowered by subsequent action of the boards and court in Victoria and there is no reason why the same should not be done under our laws. The California law specifically provides that the commission may upon petition of employers or employes rescind or amend any previous order. The Washington law provides that the commission may upon petition of employers or employes, reconvene the former conference or call a new one for the purpose of reconsidering the rates fixed in the trade. The Massachusetts, Minnesota and Nebraska laws contain similar provisions. These

provisions leave room for the revision of the minimum rates when the conditions of business demand it.

A fifth objection urged against minimum wage legislation is that industries of the State passing a mimimum wage law will be placed at a disadvantage as compared with the industries of other States not having such a law. This same objection has been urged against all social legislation in our advanced States. It was urged against the hours legislation and against legisation regulating working conditions. When minimum wage legislation was proposed in England in 1907-1908, it was asserted by those opposed to it that it would impose too heavy a burden on English industry, and that consequently there was a grave danger lest her competitors might be able to beat England in the race for commercial supremacy. Minimum wage rulings have now been in operation in England from three to four years, but the results predicted by the adversaries of minimum wage legislation have apparently not followed. On this point, the Board of Trade in reply to some questions recently put to them by the New York Factory Investigating Commission declare "that they are not aware of any tendency on the part of the manufacturers to transfer their business to foreign countries (as a result of the minimum wage law) or in the case where lower minimum rates have been feared for Ireland, to transfer their business to Ireland."[107] In this regard, however, it is well to remember that the short time for which the minimum wage rulings have been in effect as well as the low rates fixed by the boards render the English experience with minimum wage legislation less valuable than it otherwise might be.

There seems, then, to be no grave reason for fearing that the industries of the States having compulsory minimum wage laws will be placed at any very serious disadvantage as compared with the industries of other States.

[107] Third Report of the New York State Factory Investigating Commission, p. 243.

In many of the industries which will be or are already affected by minimum wage laws, there is no interstate competition. The laundries and mercantile stores are good examples of this class of industries. Such industries supply a local demand and, therefore, cannot be transferred to other States. If the cost of production is increased in this class of industries, and if the increased cost is not compensated for by increased efficiency, it will be reflected at least to some extent, in increased prices. It is not probable that the increased cost will be altogether reflected in increased prices. It may be that the demand for laundry service and for mercantile store service will diminish, if prices are increased too much. On this point, the manager of the Troy Laundry Company, of Portland, Ore., declared in a recent address "that should the price of work (laundry work) be raised the work would be done in the home. Fuel, water, starch and soap and in many cases the labor, is not considered, and if the question were asked what does your laundry cost, the answer would be, 'Nothing, I do it myself.' " What is true of laundries in this matter may perhaps be also true to a limited extent of mercantile stores, which have also to compete with the housewife.

The industries that do not cater exclusively to a local demand have to engage in active competition with the industries of other States. Anything that increases the labor cost in these industries without improving the quality of the article produced or increasing the output per unit of capital and labor, will place them at a disadvantage as compared with the same industries in other States having a lower labor cost. From the English and Australian experience and even from the short experience of our own States with minimum wage legislation, we are justified in concluding that increased labor cost will be met by increased efficiency of the workers, better equipment in factories and by the improved quality of the articles produced. In regard to the English experience, the Board

of Trade, in the letter to the New York Factory Investigating Commission already referred to, declare "the fixing of minimum rates has resulted in better organization among the employes and in improvement in the equipment and organization of their factories." In the American States where compulsory minimum wage laws are in force, employes seem to be making up for increased cost by the improved quality of their labor supply. In Utah, according to the Commissioner of Immigration, Labor and Statistics, most of the employers admit that they have obtained increased efficiency. In Oregon there seems to be a disposition according to the secretary of the commission, to select more mature women for the more skilled positions. In Washington, the secretary of the commission declares that the employers are endeavoring to secure the best service obtainable for the wage now prescribed. It seems, therefore, reasonable to conclude from what we know of the operation of minimum wage laws up to the present time, that employers will make up for the increased labor cost by the increased efficiency of their labor force, improved methods of production and a better quality of goods.[108] Minimum wage legislation makes it impossible for one employer to reap a competitive advantage over other employers by cutting down wages. If an employer operating under a minimum wage law is to obtain a competitive advantage over other employers, it must be by better business organization, by substituting mechanical devices for labor, or by a superior quality of goods. Minimum wage legislation, therefore, raises the plane of competition; it substitutes a kind of competition that develops all the best qualities of employers, that develops inventive genius, and improves the talent for

[108]The following excerpt from a statement recently given out by the United States Bureau of Labor Statistics, is of interest in this regard: "All the evidence obtainable from American States which have put into effect the legal minimum wage, goes to confirm the experience of the Australian States where the prosperity of the working class has been increased, gross 'sweating' abolished and general business conditions have thriven." (Washington Herald, March 24, 1915.)

business organization for one that is damaging to human life, that leaves the laborer with insufficient wages and frequently reduces him to a condition of poverty and dependency. So far as minimum wage rulings have this effect, no State has any reason to fear that a minimum wage law will place an undue restriction on its industries or that it will cause any of them to be transferred to other States with less restrictions and a cheaper labor supply.

A sixth objection against minimum wage legislation is that it will force employers to lower the wages of the more efficient workers in order to make up for the increase granted to the less efficient. As a large employer of Portland put it in a letter to the writer, "We have a great many girls that greatly exceed the minimum wage and this is the kind of help we want, but the minimum wage does not help these girls and no doubt the employers as a whole, would be compelled to reduce the wage of the more efficient help to offset the difference caused by the inefficient, should the ruling of the welfare commission be upheld." Another Portland employer writes in the same vein: "It (the minimum wage law) has created a tendency to reduce the earning power of the energetic and efficient. Their ability and efficiency do not receive the same recognition." What seemed to the writer most singular in regard to the replies received from Portland employers on this question was, that while they were very eloquent in speaking about tendencies, not one of whom cited any actual cases in which wages had been lowered as a result of the rulings of the Oregon Industrial Welfare Commission. It may be that the actual cases in which wages had been lowered were so few as to give only a very slender support of the alleged tendency. The secretary of the Oregon Industrial Welfare Commission says that she knows of only one better-paid worker whose wage was reduced as a result of the minimum wage ruling. On this same point, the secretary of the Washington Industrial Welfare Commission writes as follows: "Enemies of the

law claimed that the higher paid employes would suffer to meet the advance occasioned by the increase of those more poorly paid, yet no instances of that character have been brought to the attention of the commission."

A seventh objection to minimum wage legislation is that it will increase the prices which the workers must pay for their goods, thus taking away from them with one hand what it gave them with the other. This objection will be true only in so far as the economics of production remain the same and even then it will be only partially true. If employes do not show increased efficiency and if the employers do not improve their business methods, the increased labor cost will have to be met by increased prices. But from the experience of England and Australia, as well as from the experience of American States with compulsory minimum wage laws, we are not at all justified in concluding that the economies of production will remain the same at least in most industries, after a compulsory minimum wage law goes into effect. On the contrary, we have every reason for believing that employers will make up for the increased labor cost by demanding more work from their employes, by a more careful selection of their labor force, by the substitution of mechanical appliances for labor, and by a superior quality of product. But even though prices are increased in exact proportion to the increased labor cost, this increase of prices will be felt by all purchasers of the articles produced as well as by the laborers. The laborers will only have to bear one portion of the increase. The increased prices which the laborers will have to pay for the articles which they consume, will not at all be proportioned to the increase of wages granted to them under the minimum wage law.

The community cannot very well object to the payment of higher prices, if higher prices are necessary in order that its workers may be paid living wages. The community must pay sufficient interest on capital that is

engaged in producing utilities for its benefit, otherwise capital will not continue producing these utilities; it will be allowed to lie idle in bank vaults, or will be changed into consumers' goods by its owners. Why, then, should the community enjoy the utilities that are produced by labor without paying sufficient wages to the laborer? But the opponents of minimum wage legislation further contend that it will cause a falling-off of the demand for consumers' goods, they contend that there are many persons buying these goods at the present time who would not be willing to pay higher prices for them. This in turn, it is asserted, would bring a decrease in production and would thereby cause a slack in the demand for labor. The truth of the foregoing contention will depend to a considerable extent on how much prices are increased by minimum wage rulings. If there is only a slight increase, its effect on the demand for the things that we look upon as "necessaries" will be scarcely appreciable. It may increase the price of some of these things but the increase of price ought to be more than offset by the increased purchasing power of the persons whose wages have been increased. The increased price may cause a slackening in the demand for certain articles which are commonly looked upon as superfluities. But it is quite probable that decrease in the demand for superfluities may be offset by the increased demand for necessaries brought about by the increased purchasing power of those affected by minimum wages legislation.

CHAPTER XIV.

AMERICAN ECONOMISTS AND MINIMUM WAGE LEGISLATION.

It is sometimes asserted that the economists are opposed to minimum wage legislation. In order to find out whether or not there was any real basis for this charge the writer recently made a canvass of the opinions of a number of American economists on the subject. As a result of this canvass, it was discovered that the attitude of the economists toward minimum wage legislation was by no means reactionary. Of course, the economists, do not expect such marvellous results to follow from minimum wage legislation as do some of its enthusiastic advocates, nor do they show the same unreasoned opposition towards it as the ordinary business man whose interests are immediately affected. On the whole, the economists believe that the advantages of minimum wage legislation more than outweigh any difficulties or disadvantages which it may entail.

For the purpose of ascertaining the opinions of the economists, the writer proposed the three following questions to them:

(1) Is it a feasible economic policy to establish a legal minimum wage in the different States, (*a*) for women and minors, (*b*) for unorganized workers generally, this legal minimum being at least sufficient to maintain the workers in health and efficiency?

(2) Will such legislation improve methods of production?

(3) Will it improve the average efficiency of the workers?

These questions were sent out to 160 American economists, and from these the writer received ninety-four replies. These replies varied everywhere between a sim-

ple negative or affirmative and a detailed discussion of minimum wage legislation. Put together in proper form, they would make an exhaustive treatise of minimum wage legislation from the viewpoint of economic theory.

Out of the ninety-four economists replying to the first part of the first question—is it a feasible economic policy to establish a legal minimum wage in the different States for women and minors?— seventy answered in the affirmative, thirteen in the negative, and eleven declared that they were either in doubt or that the question was so involved as to preclude a categorical reply. It may be said, therefore, if the opinions of those replying to our questions can be taken as typical, that an overwhelming majority of American economists are in favor of minimum wage legislation for women and minors. They realize the difficulties of such legislation but they feel that they are well worth encountering for the sake of the great advantages to be gained in the health and efficiency of the workers. As one economist of note put it, "The importance of health and efficiency in the case of women and minors is so great that from my point of view, it is worth some risk and sacrifices to secure them." The majority of those who set themselves down as favoring a minimum wage for women and minors believe that it should be secured by a gradual and slow process. They believe that the minimum should be rather low at first and that it might be afterwards gradually increased as industry had sufficient time to adjust itself to the change. They were convinced that in this way the difficulties and pitfalls of minimum wage legislation could be either avoided altogether or considerably lessened.

In regard to the second part of the first question—is it a feasible economic policy to establish a legal minimum wage in the different States for unorganized workers generally?—the economists are not so sanguine. Fifty-five out of ninety-four economists declared themselves in favor of a legal minimum wage for men, twenty

declared against and the remaining nineteen declared that they had not given the matter sufficient thought or were still so much in doubt about it that they could not venture an opinion especially in a brief categorical form. Although the majority of those replying favor minimum wage legislation for men, the number of those who favor the immediate adoption of such legislation is very small. Most of those who favor a legal minimum for men think that we should wait until the experiment shall have been tried out and proved to be workable in the case of women and minors. A minimum wage for men was to be secured, as one economist put it, by the "step-up method." At first minimum wage legislation should be confined to women and minors but might be afterwards gradually extended to men, beginning with those lowest down in the economic scale among whom there was the least hope of organization. Most of the economists were in agreement that the minimum wage fixed for men should be very low in the beginning. They were afraid that the adoption of a high minimum at the start, might overaccentuate the difficulties of minimum wage legislation. They thought that the minimum might be afterwards gradually increased as in the case of women and minors, as industry had adjusted itself to the first increase.

Of the economists replying to the second question—will such legislation improve methods of production?—sixty-nine thought that minimum wage legislation would give a considerable incentive to improvement in methods of production, eleven thought that it would have the contrary effect and fourteen were doubtful. Those who considered that minimum wage legislation would give an incentive to improvement in methods of production based their argument on the contention that the hours legislation and legislation in regard to working conditions have had this effect in the past. They contended that every force whether natural or artificial, which increases labor

cost or for that matter any other cost element in production, tends to improve methods of production.

Sixty-nine economists who replied to the third question—will it (minimum wage legislation) improve the average efficiency of the workers?—thought that minimum wage legislation would have such an effect, eleven thought it would have the opposite effect, while fourteen were doubtful or unwilling to make a categorical reply. A number of those who replied in the affirmative to this question, thought that the effects of minimum wage legislation on the efficiency of the workers would be of a purely negative character. The average efficiency will be slightly increased by the weeding out of the less efficient which will follow the enforcement of a minimum wage law, was a common expression among this class of economists. A large percentage of the economists, however, were willing to go further and maintain that minimum wage legislation would exercise a positive influence on the efficiency of the workers. In the first place, it was alleged that the workers near the margin of competency would have to work harder in order to retain their positions. Secondly, employers would be compelled to demand more work in order to make up for the increase in wages. Thirdly, more nourishing food, warmer clothing and better housing afforded to the workers by a minimum wage, will undoubtedly increased their efficiency. A number of economists while admitting that minimum wage legislation would increase the efficiency of the workers near the margin of competency, thought that this would not compensate for the decrease in the efficiency of the better-paid workers. These economists thought that employers in order to recoup themselves for the increase of wages granted to the less efficient workers, would lower the wages of the more efficient, thus depriving them of the greatest incentive to efficiency.

Three economists out of the whole number whose opinions were canvassed, declared themselves in favor of

Federal minimum wage legislation. They contended that the passing of a minimum wage law by any State or number of States would place them at a disadvantage as compared with the other States, and it was accordingly quite possible that the State passing this advanced social legislation might have to sacrifice some of its industries. Some of its industries might be transferred to States with a cheaper labor supply.

The opinions on minimum wage legislation which we have classified above are, probably, typical of the opinions of American economists. As was noted above, the majority of them declared in favor of minimum wage legislation for women and minors.

Before concluding this section, it may be well to sum up the advantages and difficulties of minimum wage legislation as they appear to the economists. Putting together the advantages emphasized by one or other of the economists favorable to the legislation, we have a number of viewpoints which will help us to appraise the beneficial effects expected to result from minimum wage legislation. Many economists thought that a legal minimum wage would increase the efficiency of the workers by enabling them to have better medical care, warmer clothing and more nourishing food, and by compelling society to provide a more practical system of industrial training. A number of economists, also emphasized the influence for better which the common method of securing a minimum wage through the medium of wage boards would have on the mental caliber of the workers. Under a wage board system representatives of the workers would meet with those of employers. Here the representatives of the the workers must be able to formulate the demands of the workers and they must be able to give reasons why these demands should be granted. Moreover, the demands presented on behalf of the workers, by their representatives, must give expression to their common wants and desires. This must have a great

educational value for the workers, it must compel them to study their own problems more thoroughly and learn more about the industries in which they are employed. Minimum wage legislation, a number of the economists thought, would prevent employers from taking advantage of the immobility of labor and the relatively weak bargaining power of their employes to pay them less than the necessary cost of living. By a minimum wage ruling, it was thought that the employers would be compelled to pay more for their labor with the result that a number of the less efficient of them would be put out of business while the efficiency of the remainder would be increased.

All the economists, even the strongest advocates of minimum wage legislation, admit that it is beset with some real difficulties. The more important of these difficulties, as brought out by the different economists, may be summarized under four heads. In the first place, there were the political difficulties due to the opposition of the large interests and of organized labor. The opposition of organized labor, it was noted, would make itself especially felt, if there was a question of adopting minimum wage legislation for men. In the second place a number of difficulties would be created by those unable to earn the prescribed minimum and who, accordingly, would be relegated to the ranks of the unemployed and unemployable. The difficulties created by those who could not find employment at the minimum would, it was claimed, became all the more serious if the minimum was fixed at a high point for then the number of workers displaced would be large. There was, also, the danger that the number of the unemployed would be still further increased if the higher wages should attract a better class of workers to the trade. In the third place, most of the economists refer to the constitutional difficulties in the way of minimum wage legislation. These difficulties, it was contended, would be greater in the case of men than

of women and minors. In the fourth place, it was feared lest minimum wage legislation might impair the efficiency of the better-paid workers. Employers, it was thought, would be inclined to lower the wages of the more efficient workers in order to make up for the increase granted to the less efficient. One strong advocate of minimum wage legislation thought that this would be a real danger in the beginning, but that, after a time, it would become less apparent. Employers would realize that, in order to have really efficient workers, they should pay them more than the minimum.

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The author of this dissertation was born in County Clare, Ireland, March 1, 1886. After passing through the local schools of Killaloe and Limerick, he entered All Hallows College, Dublin, in 1902. In 1909, he was ordained a priest for the diocese of Omaha, Nebr. During 1910 and 1911 he was associate editor of the *Omaha True Voice*. October, 1912, he entered the Catholic University of America for the purpose of carrying on studies in Economics with Dr. O'Hara, Sociology with Dr. Kerby, and Psychology with Dr. Pace. In June, 1913, he received the M. A. degree in course. He continued his work for the Doctor's degree under the same Professors, during the years 1913-1915. In addition to the courses mentioned, the author studied History of Philosophy under Dr. Turner and Ethics under Dr. Fox in the Catholic University. During the summer quarters of 1913 and 1914, he pursued courses at the University of Chicago under Dr. Small, the late Dr. Henderson, Dr. Millis and Dr. Clark. During the last year of his graduate course at the Catholic University, the author was enabled through the courtesy of Drs. Hollander and Barnett, of Johns Hopkins University, to attend the Economic Seminar conducted by them.

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